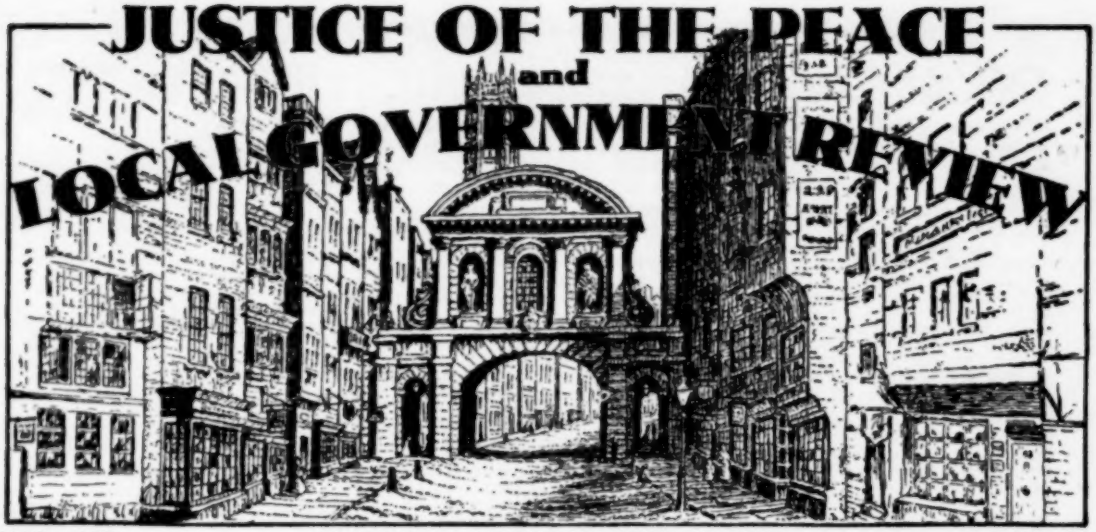

VOL. CXV. LONDON: SATURDAY, JUNE 16, 1951. No. 24

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements 24 words 6s. (each additional line 1s. 6d.) Box Number 1s. extra. *Latest time for receipt* 10 *a.m. Thursday.*

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INQUIRIES

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SOLIHULL URBAN DISTRICT COUNCIL
(Population 67,630)

Appointment of Assistant Solicitor

APPLICATIONS are invited for the above appointment in my office at a salary on A.P.T. Grades VII and VIII according to qualifications and experience. Housing accommodation can be arranged if necessary.

Applications, with the names and addresses of two referees, to be sent to me not later than June 23, 1951.

W. MAURICE MELL,
Clerk of the Council.

Council House, Solihull.

BOROUGH OF OLDBURY
(Population—53,380)

Appointment of Town Clerk

APPLICATIONS are invited for the above whole-time appointment from Solicitors having extensive experience in Local Government law and administration.

The salary will be £1,500 per annum rising by annual increments of £50 to £1,750 per annum. The Town Clerk will be permitted to retain the fees as Acting Returning Officer for Parliamentary Elections and as Electoral Registration Officer, so long as he holds these appointments.

The person appointed will be required to accept, if he is offered it, the post of Superintendent Registrar at an additional salary of £100 per annum.

The appointment will be subject to the conditions of service contained in the recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks and will be terminable by three months' notice in writing on either side. It is superannuable and will be subject to medical examination.

Further particulars and conditions of appointment and form of application may be obtained from the undersigned, to whom applications in an envelope endorsed "Town Clerkship" must be delivered not later than June 22, 1951.

Canvassing will disqualify.

ARTHUR CULWICK,
Town Clerk.

Municipal Buildings,
Oldbury.

CITY OF GLOUCESTER

Children's Committee

Boarding-out Officer (Female)

APPLICATIONS are invited for the appointment of Boarding-out Officer (female) in the Children's Department, of the City of Gloucester.

Salary in accordance with Grade I A.P.T. Division £440 by £15 to £485.

Candidates should have practical experience in child care and boarding-out. Possession of a degree, diploma in social science, or the Home Office certificate in child care will be an advantage.

A car is provided for the use of the Department and ability to drive desirable.

Forms of application can be obtained from the Children's Officer, Old Crypt House, Greyfriars, Gloucester, to whom they should be returned, together with copies of two recent testimonials within a fortnight of the appearance of this advertisement.

WEST SUSSEX COUNTY COUNCIL

APPLICATIONS are invited for the post of Junior Draughtsman (male) in the Department of the County Surveyor, County Hall, Chichester. The post is in the General Division and salary according to age, *i.e.*, age sixteen £150 per annum rising to £425 per annum at the age of thirty-two years.

Further particulars can be obtained on application to the County Surveyor, County Hall, Chichester, to whom applications should be sent not later than Wednesday, June 27, 1951.

T. C. HAYWARD,
Clerk of the County Council.

County Hall,
Chichester.

LANCS (No. 11) COMBINED PROBATION AREA

Appointment of Male Probation Officer

APPLICATIONS are invited for the above full-time appointment.

Applicants must be not less than twenty-three nor more than forty years of age, unless at present serving as full-time Probation Officer.

Salary and appointment will be in accordance with the Probation Rules, 1949, and the successful applicant will be required to pass a medical examination and to contribute to a superannuation fund.

The officer will be assigned to Prescot and St. Helens (County) Petty Sessional Divisions.

Applications in own handwriting, accompanied by two recent testimonials, to be sent to the undersigned not later than the June 30.

W. McCULLEY,
Clerk to the Probation Committee.

Town Hall,
St. Helens.

HERTFORDSHIRE COMBINED PROBATION AREA

Appointment of Full-Time Female Probation Officer

APPLICATIONS are invited for the above appointment.

The appointment will be subject to the Probation Rules, 1949, and 1950, and the salary will be in accordance with such rules and subject to superannuation deductions. The successful applicant may be required to undergo a medical examination.

Forms of application may be obtained from the undersigned and applications should be received by me not later than June 16, 1951.

NEVILLE MOON,
Clerk of the Probation Committee.

County Hall,
Hertford.

URBAN DISTRICT OF SEAHAM

Clerk's Department—Senior Assistant

APPLICATIONS are invited for this appointment at a salary in accordance with Grades A.P.T. III and IV of the National Scales (£500 to £575) the commencing salary to be fixed in relation to qualifications and experience.

The appointment will be subject to one month's notice on either side; to the Local Government Superannuation Act, 1937; and to medical examination.

A dwelling will be provided, if necessary, for the successful applicant.

Applications, giving details of present appointment, qualifications and experience, together with information about any relationship of the candidate with any member or senior officer of the Council, and with the names of two referees, must reach the undersigned not later than June 18, 1951.

F. A. ALDERSON,
Clerk of the Council.

Council Offices,
Seaham,
Co. Durham.
June 5, 1951.

WORCESTERSHIRE

Appointment of Whole-time Female Probation Officer

The Combined Probation Areas Committee invite applications from serving officers, and persons who have taken the Home Office Training Course, for the appointment of whole-time female probation officer. The appointment and salary will be in accordance with the Probation Rules for the time being in force and the successful applicant will be required to pass a medical examination. Age limits 23 to 40 years, except in the case of serving officers.

It will be an advantage if the successful applicant can provide a motor-car, for which an allowance will be paid in accordance with the County Council Scale.

Applications, stating age, qualifications and experience, with the names and addresses of three referees who can speak as to the applicant's experience, etc., to be received by the undersigned not later than June 30, 1951.

W. R. SCURFIELD,
Clerk of the Peace.

Shirehall,
Worcester. (R.143).

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

Rising Costs

In common with general experience, we are having to face an ever increasing cost of producing the J.P. and the Reports. Paper is 500 *per cent.* more expensive than before the Second World War, printing is 170 *per cent.* higher, to mention only two of the important items in our costs. During the war, expenses increased but we felt we should accept the situtation as inevitable and review the position when times became more normal. We waited until 1948 before making any increase on 1932 prices. Times have not been, and are not likely to be, anything like what everyone hoped for when the war was over. We do not propose to hand on to our subscribers anything approaching our increased costs but as from July 1, 1951, new subscriptions and those that will be renewed after that date will be at the rate of £3 10*s.* 0*d.* for the J.P. only and £6 for the J.P. and Reports. This means that the J.P. will cost its subscribers 100 *per cent.*, and the J.P. with Reports seventy-one *per cent.*, more than in 1932. We are able to fix these rates only because our circulation has increased very considerably during the past few years.

We feel sure that subscribers will appreciate that in making these increases we do so with reluctance and that we have no alternative. Some little time ago we published letters from subscribers on the subject of the length of time they or their firms had subscribed to our journal. These were very interesting as may also be the fact that the J.P. Reports are now the oldest Reports that are still published as an independent Series. We look forward to continuing support for the Series and feel sure that we shall not be disappointed.

Clearing the Court

One of those anonymous " spokesmen " to whom journalists sometimes resort for information is quoted in a newspaper on the subject of open or closed court. The question arose out of some discussion on the desirability of girl students of civics listening to objectionable evidence when visiting courts.

The spokesman is quoted thus : " The golden rule of open court—that justice should be administered openly and publicly —is the prime factor here. Magistrates or the presiding judge have the power to clear their courts during the hearing of indecent matter."

This is hardly an adequate statement of the position. The court cannot be cleared merely because the evidence is of an indecent character, but there are certain statutory provisions that are relevant. By s. 37 of the Children and Young Persons Act, 1933, power is conferred on a court to exclude the public, but not the press, while a child or young person gives evidence in any proceeding in relation to an offence against, or any conduct contrary to decency or morality. The fact that there is this specific provision negatives the idea of any general power to sit in private simply because the evidence is of an objectionable character.

As is stated in *Stone* at p. 213 " Since the decision in *Scott* v. *Scott* [1913] A.C. 417, it is clear that justices have no power to exclude any of the public, unless justice manifestly would be defeated."

The position of examining justices is, of course, different from that of a court trying cases, and there are special provisions relating to juvenile courts and to the hearing of domestic proceedings. Children, but not young persons, are excluded from the court by virtue of s. 36 of the Children and Young Persons Act, 1933.

Quick Justice

The Irish Law Times and Solicitors' Journal records a case in which a man who was alleged to have committed an assault at about 10.30 *a.m.*, was convicted and sentenced at about lunch time. This was apparently described by the successful complainant as an all-time record. The defendant, feeling he had been hardly dealt with, promptly served notice of appeal against sentence. Later, and evidently after the time for serving notice had expired, he re-considered his position and came to the conclusion that in his haste and bewilderment he had not done what, on reflection, he wished he had done, namely, served notice of appeal against conviction as well as sentence. Accordingly, when the appeal came before the Circuit Judge, counsel asked leave to amend the notice of appeal, and leave was granted.

There is perhaps a moral for magistrates' courts in this case. We rightly pride ourselves on the fact that in criminal cases the law works quickly in this country, and that there are few unnecessary delays, while in the magistrates' courts in particular the proceedings are carried through speedily. It is possible, however, to be too quick. The accused person may be somewhat

startled by arrest, and in no fit mood to conduct his own defence, or he may fail to realize the gravity of the charge and the possible consequences of conviction. Perhaps he has a sound defence in law, of which he is unaware, so that he ought not to plead guilty.

These are reasons why many courts, before proceeding with the hearing, ask the defendant whether he would like an adjournment in order that he may take legal advice and consider his position generally. If the charge appears serious, the defendant is so informed, in order that he may not be taken by surprise. A short adjournment may be in the interests of justice as well as in the interests of the defendant. If necessary witnesses are in attendance, their evidence can be taken, and the defendant told that if he does not feel able to cross-examine they will be asked to attend if required at the further hearing. This may not prove necessary, and at all events the defendant or his advisers may be glad to have the evidence to consider during any adjournment. Many magistrates dislike determining a charge of any seriousness without an adjournment, and probably they are wise.

The Adolescent Delinquent

The report of the joint committee on psychiatry and the law appointed by the British Medical Association and the Magistrates' Association, under the title "The Adolescent Delinquent Boy," even if it contains little that is new to students of criminology, is valuable in that it brings to the notice of the general public a great deal of information that is trustworthy and easily understood. The committee was representative and expert, and its investigations were on scientific lines. It was concerned with boys between thirteen and seventeen years.

The causes of juvenile delinquency are by now well understood, and it is more a matter of providing agreed remedies than of searching for causes. Less overcrowding, more clubs and recreational facilities, higher standards of conduct on the part of parents as an example to their children, all these are admittedly necessary if children are to be made less liable to fall into delinquency. This report recognizes all this, but it puts some things in a new way and strengthens the case already made out.

A principal cause of offences involving dishonesty in young people is said to be the complete lack of any sense of ownership among boys who live in homes where they have to share everything with other members of the family and have practically no personal possessions. The same used to apply to the inmates of institutions, like approved schools and orphanages, though happily many of these have seen the light and to a large extent cured that evil. It is a point to be borne in mind, as without doubt it does account for much stealing by boys living in slum conditions.

The committee devoted attention to the case of the adopted child, and it found some evidence that delinquency could sometimes be attributed to the sudden shock of discovery when the adopters had neglected to tell the child at an early age about his true position. We share the view of the committee that the sooner the information is conveyed the better, provided the adopters act tactfully, and we also agree with the suggestion that adoption law should be amended with regard to the question of serving notice of the hearing upon the infant. The present rules can work unsatisfactorily.

Questions of the right employment for adolescents, the choice between immediate high wages, and training in a trade, closer relations between parents and youth organizations, and increased membership of parent-teacher associations are also dealt with. The committee urges that there should be care committees for all schools throughout the country as in London, and everyone who is familiar with the work of the care committees in London will be disposed to support this recommendation. Another practical suggestion is that education authorities should endeavour to modify the school curriculum so that the interest of boys aged between fourteen and fifteen may be maintained in order that neither they nor the parents should feel that the additional year's schooling is being wasted. The difficulties of the schools must not be overlooked; large classes and sometimes inadequate buildings often stand in the way of what the teachers are anxious to do.

One way of bringing home to parents their responsibility for the conduct of their children, it is suggested, would be to make them deposit the amount of any security for good behaviour which the court required of them. Anything in this direction that is practicable is to be welcomed. There is today far too little sense of responsibility among many parents, and they tend more and more to rely on the numerous agencies of a welfare state to do for them what used to be regarded as their own duty towards their children.

Probation in Kent

Those people who revel in statistics and graphs will find ample material for instruction and enjoyment in the annual report of the Principal Probation Officer for the Kent Combined Probation Area. Mr. Bray and his colleagues must have gone to infinite pains in compiling tables of figures from which all manner of detailed information can be extracted. A feature of the work in Kent which has been found profitable, and which no doubt exists elsewhere, is a discussion group consisting of twenty-six members which meets fortnightly. It has proved valuable to officers generally and most of all to the younger ones.

The report records a considerable increase in the number of juveniles appearing before the courts, from 1,677 in 1949 to 1,963 in 1950.

There has been a marked increase in the number of inquiries made and reports submitted to the Courts of Assize and Quarter Sessions. The number of probation cases at Assizes has increased, the number at East Kent Quarter Sessions has remained unchanged, but at West Kent Quarter Sessions the number of cases placed on probation has fallen from ninety-one to sixty-one.

Public Policy and the Maintenance of Children

The effect of a deed by which a wife undertakes not to sue her husband for maintenance in consideration of his covenanting to pay an agreed sum regularly has been considered many times, most recently in *Tulip* v. *Tulip* noted at p. 319, *ante*. Justices often have to consider such cases, and all these decisions are therefore of assistance to them. A somewhat different question, concerned with divorce proceedings, arose in the case of *Bennett* v. *Bennett* [1951] 211 L.T. 294. After divorce proceedings had been begun, husband and wife entered into a deed by which the husband undertook to pay two annuities, one for the wife and one for the younger of their two sons in consideration of the wife covenanting "(*a*) to accept the provision . . . made for her and the younger son in full satisfaction of all rights and claims" of herself and the two children for alimony, maintenance, and secured provision in the petition and other relief, "(*b*) not to proceed further with the prayer in her petition" for such reliefs and "(*c*) not to institute . . . or proceed with nor to procure, suggest, assist or encourage . . . proceedings for" such reliefs for herself or her two sons. The prayer in the petition was in due course dismissed accordingly. After the divorce, when the husband was in some financial difficulty, payments were not kept up, and the wife brought an action before Devlin, J., to recover instalments.

The learned judge held that the promise not to procure, suggest, assist or encourage the taking of proceedings for maintenance on behalf of her child was contrary to public policy. The deed was therefore void, and the covenant to pay the annuities could not be enforced.

Written Evidence at Inquiries

A learned correspondent, acting for a client whose land a local authority seek to purchase compulsorily, is concerned at the absence of set rules of procedure for conducting the public local inquiry. In particular, he objects to the proposal of the local authority's solicitor, to hand to the inspector copies of the proofs of evidence of the local authority's witnesses, and to ask the witnesses to read them. There are some considerations involved in this, which to our local government readers will have become so much a matter of course that they are likely to take them for granted ; it seems, therefore, to be worth while to re-examine them. There are no prescribed rules of evidence for public local inquiries ; the only universally applicable principle is "natural justice." Within this principle, the control of the inquiry rests in the hands of the inspector who, if not a member of the legal profession, will at any rate be a person of experience and (normally) of practical good sense.

The purpose of the inquiry must be borne in mind. It is not a *lis inter partes* although, in cases of compulsory purchase, the declaring of improvement areas, and so forth, it assumes more nearly the character of a *lis* than in some other cases. So far as the issue is a *lis* between an acquiring local authority and the property owner, it could be determined without a public inquiry, *e.g.*, in proceedings before an impartial arbitrator who could sit in private. For the matter of that, there is no inherent reason for any oral hearing ; the confirming authority could perfectly well dispose of the issue upon written pleadings. The purpose, therefore, of the public inquiry is both to inform the confirming authority of all local circumstances and to give to the public at large an opportunity of making known to that authority what they think about local circumstances. It can, for example, be represented that the acquisition of land which it is proposed to purchase compulsorily is undesirable, because in the opinion of persons appearing at the inquiry that land is less suitable than other land, or because the proposals for which the local authority wish to acquire land are in themselves misconceived.

It is for the purpose of supplying to members of the public, as well as to the property owner whose land is proposed to be taken, the fullest information about what is proposed, that the local authority's evidence must be given publicly ; the chairman of the local authority's committee, or other local authority witnesses, must be open to questioning, not merely on behalf of the property owner but also by members of the local public who choose to attend the inquiry. The inspector will (so far as our observation goes) always allow to any person present an opportunity for questioning witnesses. But it must not be forgotten that the decision is not (as in judicial proceedings) made by the person who has heard the evidence ; it is made by the confirming authority upon the inspector's report of the evidence. Since the primary purpose of the proceedings is to inform the mind of an absent person (which can only be done in writing), we see no objection to handing in to the inspector a proof of a witness's evidence, which the inspector then appends to his written report ; unless the expense is put upon the ratepayers of taking a full shorthand note, the inspector's manuscript report may otherwise fail to give everything that has been said.

It is therefore (as it seems to us) advantageous that the witness shall be allowed to read from his proof. This ensures that the information given to the public, upon which those present can ask questions in the nature of cross-examination, will be the same as is given to the confirming authority. In a case where a public local inquiry was held, no inspector would accept a written statement of which the contents were not given orally in public ; if he had received a proof in advance, we should expect the inspector to stop the witness if he departed from it, and, if reason for the departure was given, to make a special note ; we should also expect that, in case of a compulsory acquisition of property, the proof would be given in advance to the legal adviser of the property owner. If this is not done we should advise the property owner's adviser to mention the fact to the inspector, and ask him to make a note of it, but we do not consider that the practice indicated by our correspondent is open to objection on grounds of natural justice—on the contrary we think that, from the point of view of natural justice, it has much to recommend it.

JUDEX POSTULATUS

Magistrates, like other people, may in these days of multifarious prohibitions easily find themselves defendants in summary proceedings without conscious ill-doing ; like other people, also, they may find some temptations too strong for their principles or consciences—not least, may be, when the lining of good but unrationed capon grows a little wearisome and some chance of forbidden diet looms. It was the action (once innocent but now an indictable offence) of slaughtering a pig that led to an appearance by the clerk to the justices at Aberayron in his own court, and to Lord Justice Tucker's Report of an Inquiry into the Circumstances (Cmd. 7061) presented to Parliament in March, 1947 : *see* 111 J.P.N. 17. That was a case where the charge was brought against the clerk, but most of what Lord Justice Tucker says by way of guidance for the future is equally applicable where the defendant is a magistrate. When a case of the same sort arose in the West of England about the same time, involving a county magistrate, it was, most properly, arranged to hear the charge before a neighbouring bench. When the alleged offence has to do with breaches of emergency controls, food or petrol, or as the case may be, it is at any rate an even chance that the actions giving rise to the charge will have been performed in and about the usual haunts of the defendant, so that embarrassing questions may arise from time to time about the place where, and the bench by whom, a charge ought to be heard.

Such questions may at any time arise in relation to charges which have no relation to "controls," and many are comparatively trivial, such as failure to take out a dog licence, or riding a bicycle without a lamp. Then there are proceedings for recovery of rates, which may import a moral element ; there are motoring offences which can be trivial but are often very grave, and there are breaches of food control and other regulations of the "emergency" class, which are of varying degrees of gravity. Occasionally, but happily quite rarely, justices are charged with crimes which everybody recognizes as *mala in se*, distinguishable from the *mala quia prohibita* which proliferate in the welfare state ; charges of serious character, whether they can be dealt with summarily or only upon committal at Quarter Sessions or Assizes. We do not remember any suggestion that it is necessarily wrong for a bench to adjudicate on one of its

members, for an offence of whatever calibre. There is no general statutory or other impediment; the bench have the requisite jurisdiction, but there is the question of propriety: to what extent ought the jurisdiction to be exercised? Clearly cases may arise from time to time, when it is contrary to the public interest that the bench should adjudicate; while any attempt to lay down hard and fast rules would be very troublesome, and the justices have to be trusted to exercise discretion in the matter, a working rule might perhaps be to regard as "trivial" any offence punishable by no more than a £5 fine, with imprisonment only in default of a fine. In cases above this level of gravity, it may be conceded that, unless there is some overriding consideration, a magistrate should be tried before some bench other than that on which he normally sits, and that, where it is impossible (as it may be in some boroughs) for the case to be kept entirely out of the hands of his normal colleagues, that the case should when possible be sent for trial, rather than be dealt with summarily.

The Justices of the Peace Act, 1949, will in due course reduce the magnitude of the problem, by drastically cutting down the number of boroughs with separate commissions of the peace, amounting in England and Wales to some 250.

It has been in boroughs that the difficulty we are discussing has been more evident than in counties. It is true that by s. 154 of the Municipal Corporations Act, 1882, county magistrates had concurrent jurisdiction in a borough without a separate court of quarter sessions (and in some quarter sessions boroughs where there was no non-intromittant clause), and therefore a charge against a borough magistrate could often be brought before a county bench. But even so there were many boroughs where this was not possible, so that the best course open to borough magistrates called upon to adjudicate when a colleague was charged with an indictable offence would be to commit him for trial—or, if the borough had a stipendiary, to arrange for the latter to hear the case. Now that most boroughs are to become petty sessional divisions of counties, the particular difficulty arising from the separate commission will arise less often. In a county, the difficulty was never so acute, because all county justices have jurisdiction throughout the county, so that a case can be heard by arrangement at another court house, or at the usual court house for the area by justices who do not normally sit there. It has been suggested that the justices in a different division might refuse to act, but we cannot think this likely: if the worst came to the worst an order of *mandamus* would presumably be granted, looking to the law as laid down in Lord Justice Tucker's Report, *supra*. It has also been thought that the prosecution might object. This is hardly likely where the information is laid, as in the majority of cases of breach of "controls" and of motoring offences, on behalf of a public body. The private prosecutor may be apprehensive about his costs, to the extent that he fails to secure them from the defendant, but in most cases he will hope to get them, and in any event it is in his interest as well as the interests of justice that the sort of case we are considering should be transferred. It may often be better to arrange also for a clerk of the court to act, other than the clerk to justices who would normally act in the division where the impugned justice sits. The choice of justices should, in such circumstances, be in the hands of the clerk of the peace, who would normally consult the clerks and chairmen of the benches concerned, and might in special cases (for example where there was a charge against the chairman of a local bench) seek guidance from the chairman of Quarter Sessions.

ON HAVING A FINE TIME OR MAKING CRIME PAY

By F. J. O. CODDINGTON, *Stipendiary Magistrate of Bradford*, 1934–1950

One fine day, I said to an elderly, experienced magistrate, "I have a problem young man before me this afternoon and am wondering what to do with him." Before I could say a word more, he replied "Shall I tell you what to do?" "Yes, do." "Fine him" with an air of finality as if that were the last word of wisdom. But is it?

I have noticed that magistrates tend more and more to fine almost every variety of offender guilty of almost every variety of offence, and indeed, statistics show that the fine is gaining ground even as against probation. One wonders to what extent anybody has really thought out the value of the fine as a punishment.

Certainly, there is much to be said in its favour. Historically, as we have all been taught, it has been much in use. In the earliest historical times, Anglo-Saxon and all that, the wrongdoer could purge his offence by a payment, sometimes to the King but more usually to the injured party. This, even in the case of an unlawful killing, to the healing of the sequent vendetta! But this was more in the nature of compensation to the injured party than payment as a punishment to the State. Later, after 1066 and all that, when the King's Judges perambulated the Circuits of the Counties, fines were numerous, and often heavy. They replenished the King's treasury and to some extent forestalled and replaced the taxes of later generations. The function of financing with fees and fines the machinery of the law has, indeed, continued without intermission, down to the present day.

Comparatively recently, a legal historian remarked, referring mainly to civil litigation, that if, above the portals of the Royal Courts of Justice, there were written quite truly, and for all to read, "This institution is entirely self-supporting," litigants might think again before launching proceedings!

Certainly, so far as magistrates are concerned, for many years I have suspected, and not I only, that the local courts, with natural local patriotism, have had an eye on saving the rates and financing the machinery of local justice by the imposition of frequent fines. Now a large proportion of the fines imposed are paid into the local funds. Things will be altered under the 1949 Act, when all fines and fees wherever imposed, are paid direct to the Treasury. The Treasury will, however, in future, finance the local court. The local magistrate may, therefore, well foresee or fear the Treasury civil servants' attitude, and a letter of complaint running, "We beg respectfully to point out that the fines and fees collected by your court are less than those of other comparable courts and do not cover the cost of running it, and we shall therefore be compelled to call for a contribution from your rates." Whether this will ever actually happen or not remains to be seen, but the fact, or the possibility of it, may well be a spur to the imposition of fines. The question arises, "Should an offender be fined merely for the purpose of financing the machinery of the law?" Our great-grandfathers might well have said "Yes," but I question whether many people would nowadays. I am quite sure that all those who have reflected on the proper purposes of punishment would repudiate any such motive.

Putting that aside, what other reasons are there for the fine? It certainly saves trouble. It needs less thinking about than any

other punishment. It avoids filling our prisons; indeed, one magistrate recently said to me: "Our prisons are all over-full now. We must send no-one to prison if we can avoid it." My reply to that argument would be that it is only by imposing imprisonment, whenever that is the proper punishment, that we can ultimately compel the authorities to provide increased and sufficient accommodation.

Fining also avoids the possible contamination of prison. There is more substance in that argument, but here again, it is up to the Prison Commissioners to devise means of eliminating that alleged contamination. The fine also avoids the farce and the failure of too short an imprisonment. Indeed, I agree that a nominal six months maximum, which thanks to the customary remission, amounts to only four months, is in many cases far too short, and the sooner Parliament trebles or quadruples that maximum, the better.

It should also be remembered that the maximum imprisonment, on failure to pay a large fine, is a mere three months.

All the same, it is a mistake to preach, as so many alleged prison experts have done, that a short imprisonment is never any use. There are many instances in which it is more satisfactory than any other treatment, for example, in the case of a wealthy drunken driver of a motor car, who has done no serious harm.

On the other side, courts are tending to prefer the fine to probation. This, I fear, is due in some districts, to loss of faith in the particular probation officer employed there. Probation is so much a matter of individual personal influence that where an ineffective probation officer is employed, his services may well be worse than useless. The answer to that is, as everywhere, to get rid of the inefficient, and to employ a capable person. Here again, it is up to the Home Office to train and provide a sufficient number of capable officers, an extremely difficult task at the present moment as I am fully aware.

But there is one kind of probation order, or even conditional discharge, which might well replace the proposed fine, and that is one combined with an order to compensate the victim in damages up to a maximum of £100. Thieves and other offenders have many queer ethical systems of their own to justify their conduct to themselves, but the vast majority of them do seem to appreciate that they ought to repay money, etc., which they have unlawfully taken from another. And I think that they tend to feel satisfied that they have been treated more justly if they are called upon to compensate the victim, than if precisely the same sum of money is imposed upon them as a fine. In passing, may I point out that the Act mentions "damages" and these are not limited to the precise financial loss suffered by the victim, but also include a valuation of distress and inconvenience.

Having cleared the ground so far, let us now ask ourselves "What is the effect of a fine as a punishment?" In the first place, a fine does undoubtedly vindicate the law, that is to say, it announces publicly that a forbidden thing has been done. But so, of course, does any other alternative punishment, though perhaps probation does so to a lesser extent in the eyes of thoughtless people, who do not recognize the threat of severe measures contained in it.

Apart from that, does a fine reform? Where a substantial fine is imposed on a poor wage-earner without savings, and he is ordered to pay it at so much per week extending over a period of four months or more, it may be that the weekly reminder of the "wages of sin" has a sobering reformative effect upon him, though quite possibly the greater part of that effect falls upon his wife and children. Apart from this possibility I do not see how anybody can seriously argue that a fine has a reformative effect apart from deterrence.

Finally, and this is perhaps the crux of the matter, "What deterrent effect does a fine have?" Many fines imposed by courts nowadays, for instance, the 10*s.* fine for parking on the wrong side of the road, have about as much effect as a schoolmaster's frown, or a mother's "Don't do that again, naughty boy."

Their only value is, if the offence is one likely to be repeated, where the bench adds a warning that the fine next time will be very much more severe, and makes sure that that warning is no empty one. Again, where the offender has obtained money or money's worth by theft or the like, a fine five or six or ten times the value of the amount obtained may persuade the delinquent that the game was not worth the candle.

But I question whether this applies to offences committed to satisfy emotions such as hatred or lust. A man who has blacked the eyes and knocked out the teeth of a long hated enemy may well consider that he has had full value for the fine of £5 or £2 imposed; and I gravely doubt whether, in most cases of violence or lust, a fine is the appropriate punishment.

Speaking generally, and omitting reference to particular types of offence, the basic difficulty in assessing the amount of a fine intended to be effectively deterrent lies in the practical impossibility of guessing what psychological effect it will have on the delinquent. The Criminal Justice Administration Act of 1914 orders the court to take into account the financial position of the offender. In practice it is impossible to find this out. (One is not entitled to cross-examine him, or to impose a means test.) The prosecution are not able to obtain effective information on the topic and very seldom try to collect what they could. One cannot discover whether the offender has any money saved, or has wealthy relatives or friends willing to subscribe, or whether he is naturally miserly or (more probably) extravagant and reckless. Yet all these factors are vitally important in assessing the effect of the punishment upon him.

We are a commercial people, "a nation of shop-keepers," and many magistrates, business men themselves, have the habit of calculating shrewdly the price of this and that. Money means something to them, and they are apt to think that offenders have the same outlook. Many magistrates too are employers of numerous wage-earners, and trade disputes have led them to think that these people attach enormous importance to a few shillings. But many offenders have not got the commercial or trade union type of mind at all. They lack foresight, and to them, money, when they get it, is something to be got rid of. The effect of a fine upon a person of this type is incalculable. What is a crushing punishment to one, is little more than a tiresome joke to another. Not only is the deterrence to the individual incalculable, the deterrent effect upon the general public is also a matter of doubt. Many fines, and particularly the small fines imposed by merciful, cautious and commercially minded magistrates, seem to me almost to encourage anyone tempted to commit a similar offence to go ahead and do so. "After all, it will only cost me a couple of quid at the outside" he says to himself.

No doubt there are many offences and many offenders where it is proper to impose appropriate fines. I am, of course, not suggesting that fines should never be imposed. But to my mind the fine is the "*pis aller*." It is the punishment one imposes when one can think of nothing else more suitable; when it is either not proper or not possible to commit for trial to a higher court where sufficiently long sentences of imprisonment can be imposed; nor to impose a short imprisonment; nor to put on probation or conditional discharge with or without damages, nor to employ any of the other treatments available.

The sooner the fine ceases to be the maid of all work, the better for English Justice.

THE NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949

By GRAEME FINLAY

(*Continued from p.* 323, *ante*)

NATURE CONSERVATION AND NATURE RESERVES

The Hobhouse Report (Comd. 7121) adopted the recommendation of the Wild Life Conservation Special Committee (Comd. 7122) in the matter of Nature Conservation in National Parks and Conservation areas.

In England and Wales, with highly developed agricultural and industrial economies, it was recognized by the Report that human agencies were the most important forces in the changing of the balance of nature. Man's activities, it considered, have been mostly instrumental in changing the physical and geological structure of the countryside, its vegetation, and animal life. It was, accordingly, found to be a basic requirement of National Parks policy to harmonize his material needs with the protection of natural beauty.

Section 16 of the Act, therefore, provides for the " Nature Conservancy " entering into agreements with landowners and occupiers for the purposes of managing them as " nature reserves." " The Nature Conservancy " is a body established on March 23, 1949, by Royal Charter as a Committee of the Privy Council with the following functions: (*a*) Providing scientific advice on the conservation and control of the natural flora and fauna of Great Britain; (*b*) Establishing, maintaining, and managing nature reserves (including the maintenance of physical features of scientific importance); and (*c*) The organization and development of research and related scientific services.

" Nature Reserve " is defined in s. 15 of the Act as meaning " land managed for the purpose: (*a*) of providing under suitable conditions and control special opportunities for the study of, and research into, matters relating to the flora and fauna of Great Britain and the physical conditions in which they live and for the study of geological and physio-graphical features of special interest in the area; or (*b*) of preserving flora, fauna or geological or physio-graphical features of special interest in the area, or for both of those purposes."

An agreement under s. 16, *supra*, by the Nature Conservancy may impose restrictions (s. 16 (2)), provide for the management of the land (s. 16 (2) (*a*)) or for defrayment of its costs (s. 16 (3) (*b*)) and enable the landowner or occupier to be compensated in respect of restrictions 16 (2) (*c*) whilst s. 17 empowers the Conservancy to acquire land compulsorily for the establishment of nature reserves. They are not to exercise this last power, however, unless they are unable to obtain what is in their view a reasonable agreement for ensuring the proper management of the area as a nature reserve under s. 16.

Similar power to acquire by compulsion exists under s. 18, when the Conservancy have concluded an agreement under s. 16, *supra*, but its breach prevents the satisfactory maintenance of a nature reserve.

Subsection (2) of the same section provides by way of safeguard to landowners and occupiers, that before a breach can enable compulsory acquisition there must be default in remedying it within a reasonable time after receipt of notice so requiring it.

To clarify and define the status of nature reserve areas, the Act, by s. 19, requires Nature Conservancy to make a declaration that the land in question is subject to an agreement under s. 16, *supra*, or is held by them and is being managed as a nature reserve. This step is an essential preliminary to making protective byelaws under s. 20, *infra*. If the agreement ceases to have force or the land is no longer held by Nature Conservancy then equally they must make a declaration to this effect and in either case publish notice thereof in the manner which they think will best inform those concerned. This declaration procedure equally applies to a local authority which has established a nature reserve under s. 21 (4), *infra*.

Section 20 is important for the wide scope of protective byelaws which it enables the Nature Conservancy to make in regard to nature reserves.

Attention has already been drawn, *supra*, to the prerequisite declaration and notice under s. 19.

Such protective byelaws may extend to the following matters: (i) The prohibition or restriction of the killing, taking, molesting or disturbance of living creatures, disturbance of their eggs, or the interference with vegetation of any description or soil; (ii) The prohibition or restriction of entry into or movement within nature reserves of persons, vehicles, boats, and animals; (iii) The prohibition or restriction of the shooting of birds (including birds in an area adjoining a reserve); (iv) The prohibition of the deposit of rubbish and germane matters; (v) The prohibition or restriction of the lighting of fires in a reserve, and (vi) The issue of entry permits.

There is an express proviso to s. 20 (2) that any such byelaws shall not interfere with, *inter alia*, the vested rights of owners, lessees or occupiers of land or with public rights of way or the functions of statutory undertakers, and subs. (3) of the same section establishes the entitlement to compensation of any person having rights over land which are hindered or prevented by byelaws made under the section. With regard confirmation and notice of application for confirmation of byelaws and other connected procedure, s. 106 of the Act applies the statutory code under ss. 250 to 252 of the Local Government Act, 1933, while s. 107 prescribes that any dispute arising on a claim for compensation shall be determined by the Lands Tribunal in accordance with the Rules under the Acquisition of Land (Assessment of Compensation) Act, 1919.

Local authorities are equally constituted the guardians of nature reserves for s. 21 of the Act places them (*i.e.*, county councils and county borough councils) on the same footing as Nature Conservancy in regard to the establishment of nature reserves, such authorities being thereby enjoined to have particular regard to the interest of their localities. By subs. (2) of the same section a county council may, with the consent of the Nature Conservancy, delegate any power to a county district council as respects land in their area.

By way of providing for effective liaison s. 21 (6) imposes a mandatory obligation upon a local authority to exercise such functions in consultation with Nature Conservancy.

The consultative procedure with local authorities concerned imposed by s. 7 of the Act upon the National Parks Commission before making an order designating a National Park was described in the previous article on this subject.

GROUP LIBEL

[CONTRIBUTED]

Halsbury's Laws of England describes libel and slander as private legal remedies, the object of which is to repair the plaintiff for the injury done to his right of reputation by the wrongful publication to a third person of false and defamatory statements concerning the plaintiff.

In November, 1949, the House of Commons gave attention to a letter which had appeared in a weekly newspaper under a *nom de guerre* making charges against the Metropolitan police and affecting some forty of them. The Home Secretary said on November 23, " The position therefore is that allegations have been made in the public press reflecting most gravely on the fitness of a section of the Metropolitan police to be members of that or of any police force." He said that inquiry would be made if the writer, or anybody else who believed he saw the same incident, would " give evidence before an independent tribunal to enable the truth to be ascertained by the usual methods of examination and cross-examination of witnesses. Since no one is willing to come forward to support the allegations, it is not possible for me to set up a tribunal of inquiry." The Home Secretary further said that inquiries he had been able to make did not in any respect support the grave allegations made, and that no allegations had been made in any court proceedings of such police behaviour.

Mr. Eden asked if the police had any power to take action in their own defence against such anonymous charges, and Mr. Churchill suggested that the Law Officers of the Crown might consider calling the attention of the Public Prosecutor to the case as a matter of criminal libel. Mr. Ede said that the whole question of group libel had engaged the attention of distinguished lawyers, and he did not think they had found any satisfactory solution to it. In reply to another member who asked if " action for criminal libel could be taken against the newspaper, the editor of which no doubt acted innocently, which undoubtedly would have the result of compelling the disclosure of the name of the person," Mr. Ede said that he would consult the Law Officers of the Crown on that point.

These parliamentary extracts make interesting study. Mr. Eden directed his question to whether " the section " of the Metropolitan police had any power to take action in their own defence against such anonymous charges, and other questions were directed towards getting behind the anonymity. On the first point it is clear that a number of persons defamed can join in one action. Also, that a plaintiff can sue although not actually named if he can show that the statement refers to him. " If a man wrote that all lawyers are thieves, no particular lawyer could sue him, unless there is something to point to that particular individual "—*per* Wilkes, J., in *Eastwood* v. *Holmes* (1858) 1 F. & F. at p. 349. Other cases are also cited in *Odgers' Libel and Slander*, which contains the statement : " Where words reflect upon each and every member of a certain number or class, each or all can sue." In *Jones* v. *Hulton & Co.* [1909] 2 K.B. at p. 481, Farwell, L.J., said : " Every member of the class who could satisfy the jury that he was a person aimed at and defamed could recover." No case has gone so far as to show that a member of an ascertainable group can sue in respect of a statement which referred indiscriminately to some members of the group. From *Odgers* again—" A defendant wrote and published that his hat had been stolen by some of the members of the No. 12 Hose Company. This hose company was a volunteer fire brigade unincorporated, and the members brought a joint action. Held, that the action could not be maintained, and that the defendant could not be compelled to declare to which individual member he referred ; *Giraud* v. *Beach* 3 E. D. Smith (New York City Common Pleas) 337. Even if the hose company had been an incorporated company, the position would have been the same, because no company or corporation can bring an action of libel or slander for a statement which reflects not upon itself but upon its members or officials only.

The second question, the anonymity of the writer of the letter, can be a matter of abstract interest only, at least so far as civil proceedings are concerned, for in the absence of a plaintiff no action can be commenced. The lack of a plaintiff also disposes of the question which might have been raised, about an action against the publisher or editor of the newspaper. In any event the defence of fair comment upon a matter of public interest might have served. The correspondence columns of newspapers are used to air public grievances, and the particular item had news value. Individuals who wish to air such a grievance have other means open to them, *e.g.*, in this case, a letter direct to the Commissioner. Where the marshalling of public opinion is desired that would not be considered satisfactory. It is also liable to prove exacting in other ways. Though in *Jenoure* v. *Delmege* (1891) 55 J.P. 500, a petition to the Home Secretary about a justice of the peace was held privileged, although it should properly have been sent to the Lord Chancellor, in other cases similar mistakes have been held fatal.

Criminal proceedings against the " newspaper " were suggested as a way of getting to know the identity of the writer of the letter. The publication of a defamatory libel is a common law misdemeanour. A plea of truth and publication for the public benefit is open to the defence in appropriate circumstances. But that the name of the writer of an anonymous letter in a newspaper would necessarily come out in proceedings against the newspaper does not seem to be certain. By the Criminal Evidence Act, 1898, a person charged with an offence shall not be called as a witness for the defence except upon his own application. Moreover, if the defendant does give evidence and refuses to answer a question incriminating another, the court is not bound to receive his evidence : *R.* v. *Minihane* [1921] 16 Cr. App. Rep. 38. In the circumstances no evidence might be called for the defence by the newspaper in such a case, either to proving truth or the identity of the writer.

The letter was an anonymous letter. It would have provoked even less interest but for its publication in the newspaper. The " freedom of the press," being based upon a right of every subject, is balanced by responsibilities. Contributors, publishers and editors all have their peculiar responsibilities, and the subjects generally have a responsibility to safeguard the right against destructive tendencies, *e.g.*, unreasonable criticism of the law and order upon which all rights must depend, in that without machinery to enforce rights their mere declaration is ineffective. To that end the offence of criminal libel and the common law misdemeanour of public nuisance are aimed. One ultimate sanction is the suppression of the newspaper by the State, examples of which are still of recent memory, but this step is applied only in cases considered by the Government as the most serious and usually only in times of national emergency.

Halsbury's Laws of England state that criminal libel is available where the publication tends to provoke a breach of the peace " by provoking the person libelled to break it." It is therefore probably not so appropriate where " the damage " is to the public law and order generally. That the police officers in the " group " were much concerned about the particular statement is most unlikely. The more subtle side of it, described by

the Home Secretary as "group libel," was apparently in the minds of the members of the House of Commons. They were apprehensive of a general disparagement of law and order. "Group libel," however, can possibly best be considered not strictly libel at all, but rather an act more appropriately under the heading of public mischief, of which an editor, however much innocent of any intention to libel, might be guilty in certain circumstances, as might, of course, others concerned in the writing and publishing.

"EPHESUS"

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 34.

A MEAN FELLOW

A farmer-dairyman appeared before St. Austell, Cornwall, magistrates on April 18, 1951, to answer three charges of selling milk not of the quality demanded contrary to s. 3 of the Food and Drugs Act, 1938.

A plea of "not guilty" was first entered in respect of all three charges. Evidence was then given by two of defendant's customers that they had an arrangement with him to place three bottles inside a hedge by the roadside, near an isolated moor. Defendant would then place a pint of milk in each bottle and these would be collected by the customers later.

A county sampling officer gave evidence that on the morning of March 1, 1951, he examined the three bottles and found them to be clean, dry and stoppered. The bottles were kept under observation from a concealed position, and a little later the defendant was seen to arrive in a horse drawn trap. He dismounted and proceeded with his measure to a small stream which is situated about six feet beyond the hedge in which the bottles were placed. After stooping down to the stream for a few seconds he returned to the trap, carrying the measure in front of him. He then collected the bottles, filled them and replaced them behind the hedge.

The bottles of milk were kept under observation until the first customer arrived and took possession of two bottles. The sampling officer intercepted her, and took the two pints of milk as samples. A short time later, the second customer was likewise intercepted. These samples were certified by the public analyst as containing fifteen *per cent.* added water.

Later in the morning, a further sample was purchased from defendant and this was certified by the public analyst as being genuine. On being questioned by the sampling officer, defendant agreed that he supplied milk to the customers in question, but denied that he had gone to the stream, saying that he did not know there was a stream in the locality. He stated that he had taken the measure with him when he went to collect the bottles. Later he admitted knowing that there was a stream, but repeated that he had not gone to it. He said that he had often seen children playing in the area but agreed that he had seen no one that morning.

After hearing evidence by the sampling officer and his assistant, counsel for the defendant stated that on his advice defendant had decided to change his plea to one of "guilty." He added that defendant had yielded to temptation, but the offence was not such a bad one as when water is added to milk in a churn.

Evidence was given of defendant's previous record, which included an offence in 1937 of selling skimmed milk adulterated with water, contrary to s. 2 of the Food and Drugs (Adulteration) Act, 1928. The magistrates' clerk said that the question arose as to whether the present offences constituted a second offence within the meaning of the Food and Drugs Act, 1938. The prosecution said that the Act was not very helpful on this point and they did not wish to test the matter.

The Chairman of the Bench, in fining the defendant £15 on each of the three charges, and ordering him to pay costs amounting to £8 5s., said: "You have pleaded guilty to a mean and despicable offence, a case in which there are no redeeming features."

COMMENT

Section 79 of the Act, after providing that the penalty for a first offence under the Act is to be £20 unless a special penalty for any particular offence is provided, reads: "and, in the case of a subsequent offence, to a fine not exceeding £100 or to imprisonment for a term not exceeding three months or to both such a fine and imprisonment."

The learned editor of *Bell's Sale of Food and Drugs* in a note to the section at p. 191, 12th edn. points out that the Act of 1938, unlike that of 1928, contains no provision that an offence shall not be deemed to be a subsequent offence unless the former offence or offences were under the same provisions; nevertheless it is submitted that the view taken by the court in this case was the proper one.

It will be recalled that the Act of 1938 contains many detailed provisions as to milk. In particular, Part II of the Act comprising ss. 20 to 29 inclusive, deals exclusively with milk, dairies and artificial cream, and in addition ss. 71 and 84 of the Act are devoted in the one case wholly and in the other case part, to this most important liquid.

(The writer is indebted to Mr. K. R. C. Martin, chief inspector Weights and Measures, Cornwall County Council, and to Mr. Charles Giffard, clerk to the justices, East Powder Division, for information in regard to this case.)

R.L.H.

No. 35.

AN UNAUTHORIZED COACH SERVICE

Six members of a family carrying on a coach and bus business in partnership at Bridlington, appeared at Great Driffield magistrates' court earlier this year each to answer four charges alleging the permitting of a motor vehicle to be used as an express carriage otherwise than under a road service licence granted by the licensing authority contrary to s. 72 (10) of the Road Traffic Act, 1930.

For the prosecution, it was stated that information was received by the authorities that an unlicensed service of public service vehicles was being run from Driffield aerodrome to York and Leeds, and inquiries revealed that this service had been running for a number of years unlicensed by the Traffic Commissioners.

The system was stated to be that R.A.F. personnel going on week-end leave, went to an office in the camp and booked their ticket. The corporal in the office made out a list of passengers, and then telephoned the defendants' headquarters, telling them how many passengers there were, and the defendants then supplied the requisite number of coaches.

For the defendants, who pleaded guilty, it was stated that the coaches enabled R.A.F. personnel going on week-end leave to catch main line trains home more readily than they would otherwise be able to do, and the coaches also brought these men back on the Sunday night as late as possible to get them into camp before their passes expired. It was stated that the defendants had now applied for a licence and were seeking a dispensation to enable them to carry on with the work until such time as the application for a licence was heard.

The court granted a absolute discharge in each case and ordered payment by the defendants of costs totalling £9.

COMMENT

Section 72 of the Act, which contains detailed provisions for road service licences, enacts in subs. 10 that if any person uses a vehicle or causes or permits it to be used in contravention of the section, or being the holder of a road service licence fails to comply with any of the conditions attached to that licence, he shall be guilty of an offence.

(The writer is indebted to Mr. H. W. Rennison, clerk to the justices, Bainton Beacon Division, for information in regard to this case.)

R.L.H.

No. 36.

AN OBSTINATE PASSENGER

A twenty-one year old insurance agent appeared at Swansea Magistrates' Court on April 27, 1951, charged with an infringement of reg. 9 (5) of the Public Service Vehicles (Conduct of Drivers, Conductors and Passengers' Regulations, 1936. The summons alleged that the defendant, being a passenger on a public service vehicle, unlawfully travelled on the rear platform which was not provided for the conveyance of passengers.

The defendant, who failed to appear to answer the summons at the first hearing, was brought to court after a warrant for apprehension had been issued and pleaded guilty to the charge.

For the prosecution, it was stated that defendant was standing in a dangerous position on the platform and impeding passengers entering and alighting from the vehicle. Although requested to go into the bus by the conductor and a police constable, defendant stayed on the platform. Defendant, who said he originally occupied a seat, but got up and went on the platform with the intention of jumping off the bus just before it stopped, was fined £3 and ordered to pay 7*s.* 6*d.* costs.

COMMENT

The public Service Vehicles Regulations, 1936, set out in Part II the duties of drivers and conductors, and in Part III the duties of passengers.

These regulations well repay study for they provide in great detail for the proper conduct of drivers, conductors and passengers and if the regulations were observed in all respects by all the parties there can be no question that travel by bus would be a much more pleasant occupation than it is at the present day. R.L.H.

PENALTIES

Swansea—April, 1951—being a person employed in a coal mine within the meaning of the Coal Mines Act, 1911, behaving in a violent manner therein by striking AB contrary to reg. 27 of the General Regulations made under the Act of 1911—findings of not guilty—£5 5*s.* costs awarded against the National Coal Board.

Swansea—April, 1951—purchasing beer for consumption in a bar by a person under eighteen years of age—fined 20*s.*

Swansea—April, 1951—aiding and abetting the above offence—absolute discharge. To pay 4*s.* costs. First defendant a twenty-six year old dairy labourer, second defendant a seventeen year old dairy maid.

Bristol—May, 1951—driving a van when under the influence of drink—fined £40, licence suspended for twelve months. Defendant, a thirty-five year old builder who stated that he had drunk three and a half pints of beer and about three whiskies during an evening, was stated to have pulled a police constable along for about thirty yards when he tried to stop the van.

Wellington—May, 1951—making a false representation to obtain a National Assistance payment—conditional discharge. Defendant obtained 38*s.*, in consequence of falsely declaring that she had not earned more than 21*s.* in a week when in fact she had earned £2 in four days potato picking.

BIRTHDAY HONOURS

KNIGHTS BACHELOR

Dawes, Albert Cecil, legal adviser, Ministry of Education.

Littlewood, Sydney Charles Thomas, chairman, legal aid committee, Law Society.

Studdy, Captain Henry, Chief Constable, West Riding of Yorkshire.

Williams, Harold Herbert, for services to local government in Hertfordshire and to bibliography.

ORDER OF THE BRITISH EMPIRE

C.B.E.

Mac.D. Baker, T., solicitor to the Metropolitan Police.

Kennedy, R. T., chief planning officer, Ministry of Local Government and Planning.

Parry, D. J., clerk of the Glamorgan County Council and clerk of the peace.

Titherley, A., assistant secretary, Ministry of Local Government and Planning.

O.B.E.

Bown, A. H. J., general manager and clerk, River Wear Commissioners.

Clark, G. G., director of Planning, Devon County Council.

de Vitre, Miss B. M. D., assistant inspector of Constabulary, Home Office.

Hughes, P. L., regional controller, N.W. Region, Ministry of Local Government and Planning.

Thorpe, A. A., J.P., chairman, Cardiff Savings Committee.

THE KING'S POLICE AND FIRE SERVICES MEDAL

W. T. Brindley, deputy inspector-general of Police.
Herman, H. H., chief constable, York.
Plume, A. F., chief constable, Norwich.
Breffit, R. E., chief constable, E. Sussex Constabulary.
Price, H. S., chief constable, Bradford.
Rees, W., chief constable, Stockport.
Fothergill, A. W., second assistant chief constable, Liverpool.
Wainwright, R. C., chief superintendent, City of London Police Force.
McCrone, J. S., chief superintendent, Lancashire Constabulary.
Cook, C. M. M., superintendent, Bristol.
Hickinbotham, G. F., chief superintendent, Metropolitan Police.
Morley, W. A., chief inspector, Metropolitan Police.
Richards, W. B., chief officer, British Transport Commission Police.

EXPLANATION

This prisoner's here because like many such
He made a Statement and said far too much.

J.P.C.

CORRESPONDENCE

[The Editor of the *Justice of the Peace and Local Government Review* invites correspondence on any subject dealt with in its columns, for example, magisterial matters, probation, local government, etc.].

The Editor,
Justice of the Peace, and
Local Government Review.

DEAR SIR,

CONSTRUCTION AND USE REGULATIONS

Having been very largely concerned with *Simmons* v. *Fowler* (1950) 48 L.G.R. 623, I read with great interest Mr. Thomas' article at p. 322, *ante*.

Your contributor, although he refers to *Okes' Magisterial Formulist*, 13th edn. does not mention the second cumulative supplement published in 1950 in which the various forms affected by the judgment have been amended. If he does so, he will see that Mr. Wilson has substituted for the forms, pp. 909 to 929, statements of offence bearing reference to the particular regulation and to reg. 94 of the Motor Vehicles (Construction and Use) Regulations, 1947. The forms are to be found on pp. B105 to B118 of the supplement. Various other forms have also been amended in view of this judgment.

As to whether reg. 94 was ever mentioned in the argument to the Divisional Court I may say that in the transcript of the argument which I saw no such mention was made. As a not infrequent contributor to your journal may I congratulate Mr. Thomas on his lucidity in dealing with this case.

Yours faithfully,
F. G. HAILS,
Clerk to the Justices.

Magistrates' Clerk's Office,
The Law Courts,
Coton Road, Nuneaton.

The Editor,
Justice of the Peace and,
Local Government Review.

DEAR SIR,

A DILEMMA CREATED BY R *v.* LUMSDEN

I am in a dilemma, having regard to the case of *R.* v. *Lumsden* reported in *The Times* of May 7. It is stated that although the police saw the defendant coming out of the building, he got away with it, because the police failed to arrest him while he was still in the building.

Well, my case is somewhat similar. There is a man up in one of my apple trees stealing apples, and as I am eighty-seven years of age, I can no longer climb trees. I am waiting below, hoping to catch him before he reaches the ground, as, having regard to the decision in the above case, he will then get off scot free, but he refuses to come down, and if he dies from exposure or starvation, I may find myself in the place in which he ought to be.

Yours faithfully,
R. SANDFORD.

Sandford & Co.,
Solicitors,
2 College Hill,
Shrewsbury.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

PUBLIC HEALTH ACT, 1936
DRAINAGE OF COUNCIL HOUSES

Whilst I appreciate the point in your learned correspondent's letter on p. 331, cannot the difficulty be simply overcome by, theoretically at least, working from the present sewer in the highway to the council's housing estate, thereby merely carrying out an extension to an existing public sewer?

Yours faithfully,
GEO. BOWDEN,
Clerk of the Council.

Rural District Council of Epping,
209 High Street,
Epping, Essex.

[There will be cases where this can be done, but, as our correspondent implies, the practicability of this "theoretical" solution may often depend on the facts.—*Ed., J.P. and L.G.R.*]

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

GORE PETTY SESSIONS

Lt.-Col. M. Lipton (Brixton) asked the Attorney-General in the Commons by what authority Mrs. E. Iwi was required to give an undertaking not to sit as a magistrate in the Gore Petty Sessional Division of Middlesex for a period of one year, the alternative being her removal from the bench.

The Attorney-General, Sir Frank Soskice, replied that a justice of the peace held office during pleasure, and the decision to terminate the appointment of a justice was in the discretion of the Lord Chancellor. The particular matter was first brought to the Lord Chancellor's attention in November, 1949, owing to unfortunate differences which had arisen between Mrs. Iwi and her fellow justices of the Gore Division. The Lord Chancellor asked Mr. and Mrs. Iwi to come and see him, and went into the whole matter. After a long interview he came to the conclusion that Mrs. Iwi was overwrought and that she was firmly under the impression, though the Lord Chancellor thought, quite wrongly, that she was a victim of some intrigue on the part of the other justices.

The Lord Chancellor came to the conclusion that it would be greatly in her own interest and in the general interests of the administration of justice in the Gore Division if time were allowed to heal the differences which had arisen. It was in those circumstances that he pressed her to give him an undertaking to abstain from administering justice for a year, hoping that at the end of that time she might resume her magisterial duties in a happier atmosphere. Mrs. Iwi, after considering the matter, gave the undertaking.

Lt.-Col. Lipton : " The Lord Chancellor having made it quite clear that he had no cause to remove this lady from the bench, can the Attorney-General say what is the statutory authority which enables the Lord Chancellor to compel a magistrate not to sit in that capacity for any period ? Are magistrates now being bound over to keep away from the commission of the peace for probationary periods?"

The Attorney-General : " The Lord Chancellor did not compel her ; he suggested that she should give an undertaking, and, after consideration, she gave it."

Lt.-Col. Lipton then asked whether the Attorney-General would arrange for an immediate public inquiry to be made into the administration of justice in the Gore Petty Sessional Court of Middlesex, in view of the allegations made by Mrs. E. Iwi, a member of the local bench of magistrates, who had recently resigned at her own request.

Replying in the negative, the Attorney-General said that the Lord Chancellor had carefully considered the allegations which Mrs. Iwi had made, and had decided that no useful purpose would be served by holding an inquiry into the matter.

Lt.-Col. Lipton : " In view of the very grave factual statements alleging irregular conduct in the administration of justice by the magistrates of Hendon court, does my right hon. and learned friend not think that in order to prevent the courts from falling into disrepute some form of inquiry should be made into these allegations ?"

The Attorney-General : " No, Sir. As I have already said, my noble and learned friend carefully inquired from each and everyone of them."

METROPOLITAN MAGISTRATES' COURTS

Mr. F. L. Mallalieu (Brigg) asked the Secretary of State for the Home Department whether, in view of the pressure of work in the eight Metropolitan magistrates' courts, he would consider the opening of a new court as a remand court for cases for preliminary hearing with which the courts in which they were instituted could not deal without undue delay.

The Under-Secretary of State for the Home Department, Mr. G. de Freitas, replied that the Secretary of State had examined that suggestion in consultation with the chief magistrate, but he was satisfied that it was open to too many practical difficulties. Certain measures which would, he hoped, improve the situation were being taken, and he was considering what more could be done to lighten the burden on the metropolitan magistrates' courts and thus to enable them to dispose of cases more promptly.

PRISONERS' MAINTENANCE COSTS

In reply to Mr. J. Morrison (Salisbury), the Secretary of State for the Home Department, Mr. Chuter Ede, stated that for the twelve months ended March 31, 1950, the total net expenditure on prisons in England and Wales, excluding the cost of new building but including all administrative expenses, was at the rate of about £4 3*s*. 7*d*. a week per head. The corresponding figure for the twelve months ended March 31, 1946 was £2 12*s*. 2*d*.

LEGAL AID

The Attorney-General told Mr. R. E. Manningham-Buller (Northampton S) that aid was given under the Legal Aid and Advice Act, 1949, to 15,219 cases in the period April 1, 1950 to March 31, 1951.

CONTEMPT OF COURT

Mr. Ede states in a written answer that on April 30, last, there were seven persons held *sine die* in prisons in England and Wales for contempt of court. They had been held for 450, 99, 60, 11, 8, 4 and 3 days, respectively, which gave an average of ninety-two days. The longest period for which a prisoner had been held for contempt of court during the last five years was 652 days.

REPORT ON PUNISHMENTS

In another written answer, Mr. Ede states that he has received and has under consideration the Report of the Departmental Committee on punishments in prisons and borstals, and he hopes soon to be in a position to make a statement on the recommendations. The Report is expected to be on sale on June 21.

PERSONALIA

APPOINTMENTS

Mr. W. A. Middleham of the town clerk's office, Carlisle, has been appointed assistant solicitor to the Lancaster Corporation in succession to Mr. E. Spencer, M.A., LL.B., who has recently been appointed to the Cheshire County Council.

Mr. George Arthur Hall, legal assistant in the town clerk's office, Morley, has been appointed assistant solicitor to the borough of Stockton-on-Tees. Mr. Hall is thirty years of age, and was articled to Mr. E. V. Finnigan, town clerk of Morley. He has served in the Royal Air Force, attaining the rank of flight lieutenant.

RETIREMENT

Mr. J. M. Garrow, chief constable of Derbyshire, is to retire shortly after forty-seven years service with the Derbyshire police. Mr. Garrow joined the police force in 1903 as a constable and became chief constable in 1941, being the first Derbyshire policeman to have served in every rank. He was awarded the King's Police Medal, the Jubilee Police Medal and the O.B.E.

OBITUARY

Major F. D. Rodwell, clerk to Halesworth U.D.C. for twenty-eight years, died at his home at Southwold on May 31, at the age of sixty-five. He was articled to Messrs. Green & Green of Bury St. Edmunds, and in 1912 took over the practice of Mr. H. A. Mullens at Halesworth. During the second world war he was Fuel, Registration, Food and Billeting Officer for Halesworth.

PARLIAMENTARY INTELLIGENCE

HOUSE OF LORDS

Thursday, June 7, 1951

LEASEHOLD PROPERTY (TEMPORARY PROVISIONS) BILL, read 3a.
PET ANIMALS BILL, read 2a.
CRIMINAL LAW AMENDMENT BILL, read 2a.

HOUSE OF COMMONS

Wednesday, June 6, 1951.

NATIONAL ASSISTANCE (AMENDMENT) BILL, read 1a.

NOTICES

The next court of quarter sessions for the Borough of Blackpool will be held on Monday, June 25, 1951.

The next court of quarter sessions for the Borough of Guildford will be held on Saturday, July 7, 1951, at the Guildhall at 11 *a.m.*

The next court of quarter sessions for Isle of Ely will be held on Wednesday, July 4, 1951.

REVIEWS

Notable Cross-Examinations. Chosen and Annotated by Edward Wilfrid Fordham. London : Constable & Co. Ltd. Price 12s. 6d. net.

It was a happy inspiration that lead Mr. Fordham to undertake a task which must have afforded him much enjoyment, which will certainly be shared by a multitude of readers, lawyers and laymen alike. Noteworthy trials have a certain fascination for most people, and they love to hear how celebrated members of the bar have battled with witnesses, and perhaps most of all when the witness is the defendant, whose liberty, reputation or even life may be at stake.

Here we have a selection of twenty cases, beginning with the duel between King Charles I and the Lord President of the court which condemned him and to whose jurisdiction he refused to submit. This, though not strictly cross-examination, is appropriate in such a book, as is the example of the brutal, blasphemous, browbeating by Jeffries of a witness at the trial of Lady Lisle. The rest of the cases are much nearer our own time, many within the recollection of older readers, a few within that of others who are still young. This recollection naturally adds to the delight of reading about them again, but Mr. Fordham's short accounts of what the trials were about, what particular part the witness played, and how the case ended, make each chapter stand out clearly as an example of effective cross-examination. The cross-examination of the claimant in the Tichbourne Case by Sir John Coleridge makes the reader wonder how anyone could have believed in the claimant. That of Whistler, in his action against Ruskin, by Sir John Holker, must have been entertainment for anyone fortunate enough to hear it. So must have been the thrust and parry between Sir Edward Carson and W. S. Gilbert. The devastating cross-examination of Pigott before the Parnell Commission by Sir Charles Russell is almost enough to extract a little pity for that wretched man. There is the same relentless pressure, the more effective because perfectly fair, in the cross-examination of Crippen by R. D. Muir.

Other examples are taken from such famous cases as those of Adelaide Bartlett ; the baccarat scandal in which distinguished personages were involved ; the famous Druce Case in which, as subsequent events proved, a principal witness was a lunatic ; the action between Stevier and Wootten, which caused so much sensation in sporting circles, and the vindication of young Archer-Shee which was due largely to the penetrating but courteous cross-examination of an honest witness by Sir Edward Carson.

Recent events are recalled by incidents from the trial of the war criminals from the Belsen camp, and the cross-examination of Sidney Stanley, aptly described as " a very buoyant witness." This, it will be remembered was before the Lynskey Tribunal, and the cross-examination was by Sir Hartley Shawcross.

It must be admitted that much cross-examination that takes place lacks skill and force and proves futile. These examples of cross-examination by some of the most brilliant advocates are worth studying as models by those who aspire to the art, while they will provide enjoyment to a host of those usually known as general readers.

Mr. Justice Humphreys gives the book a good send-off in his foreword. Those who remember Charles Gill, with his quiet and almost hesitant method, which concealed an exceptional brilliance in cross-examination, will be grateful to the learned judge for adding his name to the list of great cross-examiners.

To end the book, an appendix sets out for the first time some notes made by Sir Edward Clarke, himself a master in the art of cross-examination, dealing with that art with special reference to three notable exponents.

The Law Relating to Mental Treatment and the Health Service. By Harold Berry. London : J. & A. Churchill Ltd. Price 8s. 6d. net.

Mr. Berry is " a duly authorized officer " for dealing with mental cases under the Lancashire County Council, and has put this manual together for the benefit, primarily, of his colleagues doing the same work. His foreword contains some figures, startling to those not already aware of them, about the number of mental cases which have to be dealt with at the present day—both for the sake of the patients and for the safety of the public. It is certainly desirable that the officials concerned should be informed of the legal background against which they have to deal with these human problems. From a lawyer's point of view, it seems curious that the decided cases cited are given by date alone, without further references, and that these cases are extremely few. If the object is to save space, it is the more curious that some Acts of Parliament are provided not merely with their ordinary references by date but with the regnal year as well. Turning to more serious matters, the work falls into two parts, namely the Lunacy and Mental Treatment Acts and Mental Deficiency. There is some danger, in an attempt to summarize such very complicated provisions of the law as apply to the dealing by public officials with persons suffering from mental disorders. The difficulty of avoiding, on the one hand, too much detail and on the other telling the official less than he needs to know is, for all that, no reason why the attempt should not be made. We think Mr. Berry's unpretentious little book will be useful to those for whom it is intended ; the more they know of the restrictions and obligations affecting their daily work, the less likelihood is there that their employing authorities and the senior officials will be faced with awkward and complicated litigation.

Addington, Author of the Modern Income Tax. By A. Farnsworth. London : Stevens & Sons, Ltd. Price 21s. net.

This work is outside the field with which we are (so to speak) professionally concerned but, as we felt some months ago when we called attention to an article in the *Law Quarterly Review* by Dr. Farnsworth, part of which he has reproduced in the present book, no lawyer can be wholly indifferent to the beginnings of income tax. What may be called the popular or schoolboy view of history has always been unfavourable to Addington, and the credit for establishing income tax has been given to Pitt. With disputes among historians we are not essentially concerned, but it is always interesting to read such an exposure as Dr. Farnsworth makes, of some of the writings of some of his historical predecessors on the Pitt-Addington controversy. We cannot claim the historical scholarship needed to appraise this controversy, but Dr. Farnsworth appears to document his case conscientiously as well as fully ; both economists and historians, professional or amateur of the more serious turn of mind, are sure to find it interesting.

Key to Income Tax and Surtax 1951-52. By Ronald Staples. London : Taxation Publishing Co. Ltd. Price 7s. 6d. net.

This is the thirty-second edition of a publication which sets out, on this occasion, the new provisions of the Budget of 1951. It is apparently assumed that the provisions indicated in the Chancellor's Budget Speech will pass into law ; no doubt this assumption is reasonably safe, although lawyers, who may become involved in the course of the next twelve months with taxation problems, will wish to verify the legal position. The editor is a former member of the Office of Inland Revenue, and various parts of the work are contributed by members of the Bar or accountants with special knowledge of the subject. The work is arranged in chapters dealing with companies, persons resident abroad, and so forth, and gives the rates of tax and allowances for every period in the present century. There are tables for calculating gross amounts, life assurance, and reliefs, and the whole is issued with a double thumb index, *i.e.*, on the right-hand margin and at the foot of the page, so that every topic can be rapidly found, whether one is considering it from the point of view of the taxpayer concerned, or of the type of tax in question. The subject is one upon which, although we are prepared (as readers know) to deal with it in Practical Points, we do not claim any special acquaintance. So far as we can see, the publication is likely to be useful to taxpayers as such, and to their accountancy and legal advisers.

Manual of Fire Service Law. By Peter Pain. Leigh-on-Sea : Thames Bank Publishing Company Limited. Price 20s. net.

The term " manual " is aptly applied to this work, which is of a size to go into the pocket, and comprises some 460 pages. The learned author has set out to give to all ranks of the fire service, in which it seems that he served during the war, and more particularly perhaps to the lower ranks, an indication of the legal provisions affecting them as employed persons, and also those affecting their work. The law about firemen as employees is based upon that relating to the police and is pretty plain sailing, apart from some complications in the pension code. It is, however, so far as we know, not elsewhere collected in a form convenient for the men whom it most concerns. The law relating to fire prevention, and the protection of buildings and other property against fire, is much more complicated. We certainly agree with the learned author, that it is desirable for members of fire brigades to possess at least an elementary knowledge of the legal provisions relating to the construction of buildings, the supply of water, means of escape, and cinematographs, so far as the prevention of fire, or of the more serious consequences of fire, comes into these subjects. It is, however, unavoidable that an elementary manual, for the use of working firemen, should be very sketchy, in so far as it attempts to explain these provisions of the law. It is no more than fair to remember that, when the Royal Commission on Fire

Brigades and Fire Prevention was taking evidence, some of the Commissioners expressed themselves surprised and dissatisfied, that there was no code of fire prevention law, because "fire" touched upon so many different codes of legal provisions. The legal position is, if anything, more complicated now than it was at that time. This said, we are prepared to believe that the purport of legal provisions of this type is indicated in the present work as adequately as can be done for the purpose in view. We suspect that the main utility of the book will be in the direction of informing the rank and file of fire brigades about their own rights, in such matters as pay, discipline, and pension, but they will also find the part of the work which deals with fire prevention and fire protection helpful, since it is desirable that they shall have a general (if necessarily modest) idea of how the law works upon these topics.

The Adoption Act, 1950, and Orders. Edited and annotated by S. Seuffert. London: Eyre and Spottiswoode. Price 16s. net.

A concise and accurate handbook on a new statute is always welcome. Often, as in this instance, there are also new rules or orders to be assimilated, and an editor who brings them together in a single volume, with cross-references and annotations reduces the labours of officials and practitioners who are concerned with the matter in hand.

It was the Adoption of Children Act, 1949, that made the notable changes in the law, and this was followed by a new set of Rules for the three types of court dealing with applications for adoption orders. Some of the changes in the law and practice were of great importance, and procedure and forms had to be altered. The Act of 1950 consolidated the earlier statutes, and the recent rules were continued in force. The present book contains the law to date. Case law on adoption is not yet voluminous, but a few decisions throwing light on various points are cited.

It might have been helpful if the question of appeals had been treated in a little more detail, but otherwise we have found the work in every way satisfactory as a guide to the subject.

The Order of the Court. By J. Dudley Pank. London: Hodder & Stoughton. Price 8s. 6d. net.

The title is not very illuminating, and the statements on the dust-jacket might lead some people to think the author was making a furious onslaught on the whole approved school system. In fact, this is a good book, written with obvious sincerity, by a man who, far from being one of the "give-'em hell" school is a believer in reformative methods for all who show a desire to respond.

Mr. Pank has worked among boys for many years, and from 1939-1948 he was on the staff of a senior approved school. His book consists largely of reminiscences, in which he records incidents in the life of the school, and gives many an illuminating picture of the character and careers of some of the boys. His relations with them were friendly and manly, and it is clear that he had a lasting influence on many.

Towards the end of the book, he criticized some of the features of the system which led to his resignation, and it is in his recommendations that he enters into controversy.

He is much concerned with the increase in the number of escapes. "Eight years ago" he writes, "we had fifteen in the twelve months, and thought it a bad year, today fifteen in three months is considered fairly good." If these figures are indeed correct, there is ground for uneasiness, especially when it is remembered that escaper's (why does Mr. Pank, in common with some officials, use the unsuitable word "escapees") generally commit crimes and cause alarm. Is there anything unreasonable in Mr. Panks' suggestion that for persistent absconders there should be special schools where bars and locks can put an end to their activities?

The suggestion that the birch should be re-introduced as a punishment to be ordered by the court, and should be more freely used in the schools, is more provocative. So, to a less extent, is the proposal that publication of names and addresses, should be general, except perhaps on a first or second appearance. His contention that birching every boy upon his first offence would lead to the closing of ninety *per cent.* of the approved schools within a few years, can hardly be taken seriously, and rather detracts from the value of the book. On the other hand, he is probably right in asking that the approved schools should be given a chance earlier, and that probation should not be several times repeated.

In the school to which Mr. Pank was attached there is a fine record of success, as he readily acknowledges. His fear, which many people share, is that leniency has gone too far, that too much trust is placed in boys who are not worthy of it, and that lawless youth is getting out of hand. If we understand him aright, he is not suggesting restrictions and severity as the future policy of the schools generally, but only that the dangerous minority should not be allowed to ruin the system which could work well with the majority. There is much in the book with which to disagree, but there is more to reflect upon, and the vignettes of approved school boys, sympathetically drawn, make pleasant reading.

The Double Tenth Trial, edited by Colin Sleeman and S. C. Silkin. War Crimes Trials, Vol. VIII. Edinburgh and London: William Hodge and Co. Ltd., Price 18s.

These volumes of War Crimes Trials will undoubtedly be of great assistance and interest to future historians and to those concerned with international law, for they provide an accurate record of the way in which it was sought to put on an established legal basis the procedure for bringing to justice those whose conduct in planning and carrying out the second world war went beyond what was thought to be within the accepted rules of international law and of the usages of war. But the volumes have an importance for ordinary readers with little or no interest in the legal aspects of the matter in that they record the horrors suffered by people at the hands of those whose only guiding principle, if it can be so called, was that the end justified the means, however foul, the end being what they wanted at the moment to achieve.

This particular volume is concerned with the trial of twenty-one members of the Japanese organization known as the Kempei Tai, a military police force forming part of the Imperial Japanese Army. They had been concerned in the dealing with and interrogating the civilians interned by the Japanese at Singapore in the Changi gaol. The Japanese were convinced that some of the internees were working actively against the occupying forces and were determined to secure confessions from those whom they suspected. The barbarous methods used and the dreadful conditions in which the prisoners were confined, men and women being indiscriminately mixed with no sort of privacy, are described in detail in the evidence given before the tribunal. This was a military court consisting of Lt.-Col. S. C. Silkin, R.A., as president with Major S. F. Hodgens, of the Australian Army Legal Corps and Capt. R. J. Topping of the 6/8 Punjab Regiment as members.

There is a foreword to the volume written by Viscount Simon, and a very clear introduction by the editors. For the most part the volume consists of the evidence of the witnesses, some given in person and some by affidavit. One of the accused was acquitted at the close of the prosecution's case, six others were also acquitted, eight of the others were sentenced to death, and the remaining six to terms of imprisonment ranging from eight years to imprisonment for life. Two of those convicted, including one of those sentenced to death, were later found not amenable to the jurisdiction of the court on the ground that they were British subjects. They were subsequently retried by a civil court and both were sentenced to imprisonment.

Index to South African Case Law. By Graeme Duncan, M. Barnett and J. L. Buchanan. Cape Town and Johannesburg: Juta & Co. Ltd. 1951. Price 50s. net.

This work is the fourth consolidated edition of *Bisset and Smith's Digest of South African Case Law*. We gather from the preface that it has been found necessary, in South Africa as in this country, to reduce the cost of periodical legal works and that, in the present edition of *Bisset and Smith*, this has been done by cutting out certain matter which can be found in the reports themselves. Nevertheless, so far as we can judge, the digest seems capable of being used in practice when the reports are not at hand; we should suppose that for South African lawyers there is special value in such a digest, by reason of the fact that South African law as now existing is a blend of different systems. Among lawyers in this country, there cannot in the nature of things be much sale for a digest of South African case law, although here and there, as for instance in regard to the liability of public officers in costs, and some of the cases about railway property, a South African decision may be useful. For the English lawyer who remembers his early studies in Roman law, there is always some interest to be found in looking through a South African book; for any of our readers who may contemplate proceeding to South Africa and carrying on legal practice there, we should suppose it would be wise to master such a compendium as this.

BOOKS AND PUBLICATIONS RECEIVED

Mr. J. O. Steed, clerk to the justices for the Melford and Risbridge divisions of Suffolk, has written a memorandum on the functions and duties of the Justices of the Peace, which has been printed with a foreword by Sir Cecil Oakes, C.B.E., deputy chairman of East and West Suffolk Quarter Sessions.

Mr. Steed can draw upon forty years' experience as clerk to justices, and as Sir Cecil Oakes says: "he has thought deeply and written accurately on the philosophy of our judicial system." It is recommended particularly to new justices as a means of appreciating their constitutional function as preservers of the peace.

Copies of the memorandum can be obtained from Messrs. Waite Brothers, Long Melford, Suffolk, price 2*s.* 6*d.*

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—**Contract**—*Water supply—Agreement for hosepipe—Circular—Suggested implied agreement.*

A council supply water under the Public Health Act, 1936. Under s. 126 (3) of that Act a reasonable charge, in addition to the water rate, may be made in respect of water when it is used by means of a hosepipe or similar apparatus, either for horses or for washing vehicles. The council charge a fee of 15*s. per annum* for hosepipes, payable for a year or part of a year, when used for gardening purposes. This purpose is not specifically mentioned in the above section, and therefore it would appear that the charge for hosepipes for gardening purposes must be by agreement between the council and the user by oral or written agreement. As it was found that users of hosepipes for gardening purposes were not notifying the council, the council resolved that notice be circulated with demand notes, to the effect that any persons wishing to use hosepipes should first apply to the council, and that such applications would be considered by the committee for their decision in each case. Following on that resolution, the enclosed notice was sent with every demand note. A ratepayer, not necessarily a water consumer, paid the half-yearly charge of 7*s.* 6*d.* in April, 1948, and again in April, 1949. These payments were returned to him as in those years the use of hosepipes was prohibited owing to shortage of water. Not until after the receipt from the council early in September, 1950, of an account for 15*s.* did this person notify the council of his intention not to use water by means of a hosepipe. He stated that as he never intended to use, and had not used, town's water for his garden in 1950 he considered a reply to the notice was unnecessary. There is no evidence of use of water by him at any time. The council also contend that they are not bound in any year to prove the use of water before making the special charge, and that if the above ratepayer wished to end the implied agreement, he should have given notice at the beginning of the year of his intention not to use the hosepipe. I should like an opinion as to whether the council's contentions are correct in fact and in law. ANUB.

Answer.

We cannot see where "implied agreement" comes in, as regards 1950. The circular says the council should be notified if the recipient uses a hosepipe, and says that failure to notify (which must mean failure if he does use one) "may" mean penalties. Whatever else could be said about this document, it is completely silent as regards a person who does not use a hosepipe, and, if the ratepayer now in question did not do so, he was not even asked to notify the council of anything. (If he had been asked to inform them that he would not use a hosepipe, and had failed to notify them, though in fact he did not use a hosepipe, we still do not see how an agreement to pay them could be implied, but even that is not the case put to us.) The claim seems ludicrous.

2.—**Highway**—*Lateral support—Excavation—Agricultural land—Anticipated damage.*

We act for a local authority which is a highway authority for the district. One of the roads within the jurisdiction of this authority runs along a hillside. The farmer who farms the land on the slope below the road has, with the object of improving such land for agricultural purposes, been using a bulldozer upon it to level it. In particular, he has cut something of a terrace into the hillside below the road. It is considered that by doing this he has removed part of the soil, etc., which supported the road, and that there is a strong possibility that part of the hillside supporting the road (and part of the road itself) may slide down the hill as a result of the excavation. The solicitors acting for the farmer have questioned whether the highway authority have any right of action against the farmer for what he has done to his own land, at least until there is some actual subsidence. We gather that their view is that at the worst it is a case of *injuria sine damno*, and that in fact there is no *injuria* till the road surface is actually damaged. We shall be much obliged if you can advise on this point and on what, if any, remedies the local authority has, to prevent the expected injury taking place to the road. It should be stressed that without careful investigation of the nature of the subsoil (which could not be done without further weakening the road) it may be impossible to prove the danger with absolute certainty. ARD.

Answer.

We appreciate the contention of the solicitors on the other side; on the authority of *Backhouse* v. *Bonomi* (1861) 34 L.J.Q.B. 181, their clients may not yet be liable in damages, but we are not sure they are invulnerable. While the Highway Acts do not seem to provide for such an anticipated danger, and we take it that the Town and Country Planning Act, 1947, does not help, since this excavating work is being done in the course of agriculture, the local authority have a natural right to lateral support from the adjacent land for their land in its natural condition: *see* the statement by Parke, B., in *Nicklin* v. *Williams* (1854) 23 L.J.Ex. 335, which, despite reversal for other reasons in the Exchequer Chamber in *Bonomi* v. *Backhouse* (1859) 28 L.J.Q.B. 378, still stands as a statement of the law. The law is again so stated by Jessel, M. R., in *Birmingham Corporation* v. *Allen* (1877) 42 J.P. 184, even though on the facts of that case the defendant succeeded. As regards the highway, which is when metalled an artificial addition to the weight, as is a building, we see no reason to doubt that support can be prescribed for as an easement on the principle settled in *Dalton* v. *Angus* (1881) 46 J.P. 132. If we are right so far, it would be worth while for you to consider whether an injunction could be obtained to restrain anticipated damage: *Dalton* v. *Angus, supra*; *Crowder* v. *Tinkler* (1816) 19 Ves 622; *A.-G. alias Crofton* v. *Manchester Corporation* (1893) 68 L.T. 608; 57 J.P. 340; *A.-G.* v. *Nottingham Corporation* (1904) 68 J.P. 125; *Graigola Merthyr Co.* v. *Swansea Corporation* (1929) 93 J.P. 121, although it is fair to say also that these cases show that in *quia timet* proceedings the court has to be satisfied of the probability of injury, *i.e.*, you are subject on the case as stated in your letter to a heavy burden of proof. The burden may, since injunction is a discretionary remedy, be all the greater by reason of the emphasis now laid upon intensive food production.

3.—**Housing**—*Closing and demolition—Unfit house comprised in block—Treatment as part of building.*

One house in a block containing several houses has recently become vacant and the local authority, being of the opinion that this empty house is unfit for human habitation, is anxious to prevent its reoccupation. It would not be possible to demolish this house without providing adequate support for the adjoining houses. Does the word "building" in s. 12 of the Housing Act, 1936, include a block of houses, thus enabling a closing order to be made on the house which has now become vacant. ALU.

Answer.

We greatly doubt it. What is a building, or part of a building, or a house or part of a house, is a question of fact, but in the normal case of three houses divided by vertical party walls, applying the test of the normal use of language, we do not think the middle house can be called a "part" for the purpose of avoiding its demolition.

4.—**Husband and wife**—*Access to children—Married Women (Maintenance) Act*, 1949, *s.* 5—*Can order be varied by insertion of provision as to access.*

By s. 5 of the Married Women (Maintenance) Act, 1949, where provision is made by an order under s. 5 of the Summary Jurisdiction (Married Women) Act, 1895, or s. 5 of the Licensing Act, 1902, for the custody of any children of the marriage the order may make provision for access to those children. The question has arisen whether or not this provision for access can be interpreted to mean that where an order made under s. 5 of the 1895 Act included a clause for the custody of the children of the marriage, that order may be subsequently varied or amended by inserting a provision giving access to the children by the husband. Section 5 of the Married Women (Maintenance) Act, 1949, does not use the words "at the time of the making of the order" neither does it state that an order may be subsequently varied to include such a provision. Before the passing of this Act it was the practice to utilize the provisions of the Guardianship of Infants Acts to make an access order but presumably it was the intention of the new statute to regularize the position with regard to the Married Women Acts. Your learned opinion would be greatly appreciated on this point. S. CUSTAX.

Answer.

This is a difficult question. It is no doubt desirable that there should be power so to vary an order, but the wording of the Acts does not make this clear. We think that if the order was made after the coming into operation of the Married Women (Maintenance) Act, 1949, it may be varied as to access. As regards orders made before the Act came into force, *see* P.P. 2 at p. 159, *ante*, for the view we have so far taken, and a Note of the Week at p. 288 for a more liberal view.

5.—Husband and Wife—*Maintenance order—Divorce—Both parties re-marry—Whether maintenance order enforceable.*

The husband, against whom a maintenance order in favour of his wife was in force, obtained a divorce from her, and both parties have since re-married. The husband has not applied for the revocation of the maintenance order, and the solicitors for the wife contend that he is still liable to pay the weekly amount awarded by such order to the wife. Even if that were so, I am of the opinion that no court would make an order to enforce payment.

May I receive your views hereon please. SANGO.

Answer.

The divorce does not automatically put an end to the order: this appears to be so even after re-marriage. Cases in point are *Bragg* v. *Bragg* [1925] P. 20; *Plunkett* v. *Plunkett* [1937] 3 All E.R. 736; *Mezger* v. *Mezger* [1936] 3 All E.R. 130; *see* also *Bellenden* v. *Satterthwaite* [1948] 1 All E.R. 343. There is, however, ground for applying to have the order varied or discharged.

As to the enforcement of arrears it is certainly quite possible that the court might remit these under s. 8 (2) of the Money Payments (Justices Procedure) Act, 1935, but this might depend upon facts connected with the grounds upon which the divorce was obtained and with questions as to the children, if any.

6.—Justices' Clerks—*Bias—Clerk who is acting as solicitor for a person who wishes to proceed before his justices under the Summary Jurisdiction (Married Women) Act*, 1895.

I have been concerned privately for a client who instructed me to take divorce proceedings against his wife. While we have been endeavouring to obtain the necessary evidence his wife has consulted another solicitor who now has advised her to take out proceedings before the borough justices, to whom I am clerk, for separation on the ground of cruelty and desertion. All the cruelty alleged and the desertion alleged took place, if at all, within the borough. The solicitor concerned appreciates the difficulty of my position and has suggested that the proceedings before the magistrates shall be heard in an adjoining court by consent. The Act does not appear to provide for this and I should be glad to have your views as to whether or not such a course is possible without prejudicing either the parties or the clerk of the court to which the case is referred. STOR.

Answer.

Section 4 of the Summary Jurisdiction (Married Women) Act, 1895, as it originally stood, appears to require the proceedings in such a case to be before the borough justices, but the section was amended by s. 6 of the Married Women (Maintenance) Act, 1949, so as to confer an alternative jurisdiction where either of the parties ordinarily resides. If husband or wife, in this case resides outside the borough this will enable proceedings to be taken elsewhere. Failing this, it seems to us that a simple way out of the difficulty would be to ask the clerk of another division to act in place of our learned correspondent as clerk to his justices when they are dealing with this matter. This is done from time to time, and is recognized by *Stone*, of which Lord Justice Tucker in the Aberayron report (Cmd. 7061 of 1947, para. 9) speaks in this context as "authoritative." Our correspondent would no doubt arrange for another solicitor to act for the husband in proceedings before his justices.

7.—Land—*Compulsory purchase—Restrictive covenant accepted by purchasers.*

A local authority has given notice of its intention to acquire by compulsory purchase certain land for the purposes, *inter alia*, of s. 4 of the Physical Training and Recreation Act, 1937. The owner has no objection to the purchase but objects to some of the purposes for which the land may be used under that section, *inter alia*, holiday camps or camping sites. The local authority is sympathetic towards this view, but cannot bind its successors never to use this land for either of these purposes. A public local inquiry is to be held. Is it possible for the Minister to attach restrictions when confirming the purchase order, for example, that the land shall never be used for either of these purposes? A SUBSCRIBER.

Answer.

We do not see how the confirming authority could attach restrictions; that authority merely confirms the order for purchase. We think the restrictions should be by a covenant against the uses to which there is objection. In a conveyance to a local authority acquiring land otherwise than by compulsory purchase restrictive covenants are not uncommon, and we see no difficulty in principle about compulsorily acquiring land subject to such a covenant.

8.—Landlord and Tenant—*Rent restriction—Improvement—Increase of rent—Water supply.*

Is the provision of a water supply in pipes an "improvement" for which rent may be increased in accordance with the provisions of s. 2 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, as amended by s. 7 of the Act of 1933? Would you please quote any authorities on this matter? The substitution of a modern and efficient sanitary system for one of an older type was held to be an improvement in *Strood Estates Co. Ltd.* v. *Gregory* [1936] 2 All E.R. 354, but some doubt has been raised as to whether the carrying out of work in accordance with the requirements of a notice served under s. 138 of the Public Health Act, 1936, as amended by s. 30 of the Water Act, 1945, is not merely work carried out to render a house fit for habitation according to present day standards, *i.e.*, not an "improvement" but work carried out to remedy a defect. A. RICK.

Answer.

The point does not seem to be exactly covered by authority. Where there is already a piped supply the cost of replacing defective pipes with sound pipes has been held not to be an improvement for this purpose: *Garstang* v. *Fish* [1934] L.J.N.C.C.R. 274. But providing a piped supply in place of a well or other external source seems to us to be an "improvement," both on the principle of *Strood* v. *Gregory*, *supra*, and on the reason of the thing. The installing of electric light, gas, or internal water (where not previously installed), is an "improvement" for which a subsidy can be paid under Part II of the Housing Act, 1949. The practice note issued in January 18, 1951, names these internal services immediately after privy conversion. Seeing, therefore, that privy conversion is an "improvement" within s. 2 (1) (*a*) of the Act of 1920, we see no reason why water supply should not be. The Act sets out to protect the tenant from being charged more than he first agreed to pay for the accommodation provided. It does not aim at giving him better accommodation for the same money. This is the whole point of s. 2 (1) (*a*).

9.—Landlord and Tenant—*Rent Restrictions Acts—Recovery of possession—Tenant residing in other premises but leaving her mother in possession of controlled premises.*

A protected tenant writes to her landlord saying she wishes to take up residential employment elsewhere and asking for the tenancy to be transferred to her mother, who lives with her and has so lived for several years. The landlord desires to sell the premises with vacant possession. If the tenant takes up residential employment elsewhere I shall be glad of your valued opinion as to whether she can legally remain a protected tenant if she allows her mother to continue to reside in the premises as licensee. If not, what is the appropriate procedure to obtain possession? ACTH.

Answer.

This is a point which, strange to say, does not as yet seem to be directly settled by authority, but perhaps the best summary of the law, as so far settled, is in the headnote to *Brown* v. *Brash* [1948] 1 All E.R. 922. An ordinary tenant of a dwelling is not bound to reside personally, unless the agreement so stipulates. It has been held in the county court that a statutory tenant can claim protection where his daughters occupy, if the prior contractual tenancy was known on both sides to be entered into with a view to their occupation: *Kirk* v. *Shrieband* [1947] E.G.D. 248. This decision has been doubted: if correct, we think it is to be explained by the peculiar facts. Although a person may have two protected residences: *Langford Property Co.* v. *Athanassoglou* [1948] 2 All E.R. 727, so long as he uses both, a person who goes out of possession of a protected dwelling-house loses, generally speaking, the protection of the Acts: *Skinner* v. *Geary* (1931) 95 J.P. 194. Much may depend on the completeness of the break-away: a school matron, for example, whose duty required her to live in the school during term might retain a holiday residence: *see* what Tucker, L.J., said about a week-end cottage in *Langford Property Co.* v. *Athanassoglou*, *supra*, and this woman may spend some time with her mother at fairly regular intervals. It is a question of fact and degree. Assuming she has no real residence in the house, *Skinner* v. *Geary* indicates that the protection ends. As regards procedure, it is on the face of the query not quite clear whether the woman is still a contractual tenant, in which case she is of course entitled to notice to quit before anything else can be done, or whether notice to quit has already been given. If she is already a (mere) statutory tenant, proceedings for possession can be begun without more ado, if the landlord is sure enough of the facts: *Brown* v. *Brash*, *supra*.

10.—Licensing—*Provisional on-licence—Premises not built because of post-war building licence problems—Scheme for "temporary" premises to be built in what is designed as the garden of the new premises when built.*

I have been consulted by Much Binding Brewery Ltd., who on February 7, 1946, were granted in the name of their local manager a justices' licence authorizing him to hold an excise licence to sell by retail at premises to be known as "M—— Hotel" any intoxicating liquor which might be sold under a publican's licence for consumption either on or off the premises. The licence was granted subject to conditions endorsed thereon and should not be of any validity until it had been duly declared to be final by an order of the licensing

justices and should be in force from the day on which it was declared final until April 5, 1947.

The monopoly value was fixed at £6,750 and the licence was confirmed on April 3, 1946. Owing to the refusal of the Ministry of Works to grant a building licence the public house has not yet been built and the brewers have paid 8s. 6d. each year to renew the provisional licence. The deposited plans provide for the building to be erected on the site coloured green on the enclosed plan and the actual structure of the building is shown with dotted lines. The brewers are not anxious to surrender the provisional licence which they have got as they fear that if they surrendered it, when the time came for them to make a fresh application, onerous conditions might be imposed especially relating to the provision for dining hotel and bedroom accommodation.

On the other hand they are prepared to spend £10,000 if they can get permission to erect a temporary building on the site coloured pink on the plan. This would not overlap the site set aside for the permanent building but would be on the forecourt where in time to come there is supposed to be a garden and trees.

Do you think it possible in law for there to be two licences subsisting in respect of the same pieces of land, *i.e.*, the provisional licence already granted and a licence for a temporary public house for which the brewers are prepared to apply at the adjourned general annual licensing meeting? NOMAD.

Answer.

Such expedients as our correspondent mentions arise in a disordered situation and were quite outside the contemplation of the legislature when licensing law was framed: no reported decisions furnish the slightest guide to an adviser. But we see nothing offensive to general principles in the proposed scheme, although the so-called "temporary" licence will require to be applied for as a new term licence and will be conditioned for the payment of monopoly value as premises having identity quite distinct from the major scheme. Although the law is not clear as to the extent that two licences may subsist in respect of the same premises, the "temporary" premises of this scheme are clearly different from the not yet built "premises" of the larger scheme. It very often happens in practice that a provisional licence is granted for premises to be built on a site already partly occupied by existing licensed premises: our correspondent's question seems to have reference to the same situation in reverse.

11.—Magistrates—*Practice and procedure—Period of remand after conviction—Indictable case tried summarily.*

In this division, X, charged with larceny, elected summary jurisdiction, pleaded Guilty and was remanded for two weeks in custody under s. 25, Criminal Justice Act, 1948.

On the remanded hearing, owing to difficulties (*i.e.*, question of residence, etc.), the court was not prepared to give a decision and decided to defer sentence for three months.

The question of the period of remand was considered, and the court, after having obtained the consent of the prosecutor and the defendant, having regard to the words "accused of an indictable offence" in s. 20 (2) of the Criminal Justice Administration Act, 1914, decided to remand the defendant on bail for three months.

1. I would be pleased if you will advise whether such a charge (where the defendant has elected summary jurisdiction) is one to which the Indictable Offences Act, 1848, s. 21, as amended by the Criminal Justices Administration Act, 1914, s. 20 (2) applies, having regard to the powers of the court to commit for sentence or borstal training under the Criminal Justice Act, 1948.

2. Whether a juvenile court, after a finding of Guilty would have power to remand on bail for more than three weeks (providing prosecutor and defendant agree), a juvenile charged with an indictable offence, or

3. Are the powers of remand under the Indictable Offences Act, 1848, as amended, limited to cases other than where summary jurisdiction has been accepted? JACTS.

Answer.

So far as summary procedure is concerned we can add nothing to the answer we gave to P.P. 7 at 113 J.P.N. 718.

Our answer to the questions asked here are:

1. No.

2. Only on the authority of the case of *Rushworth* v. *Fletcher* referred to in our previous answer. It is not easy to be certain of the exact effect of this decision. Our Note of the Week upon *Jones* v. *Savery* [1951] 1 All E.R. 820, at p. 336, *ante*, may in principle be compared, though involving other statutes.

3. Yes.

12.—Public Health Act, 1936—*Connexion of house drains with public sewer.*

My council has recently completed a sewerage scheme for part of the district and is now engaged in connecting house drains at the expense of property owners by agreement, the cost, where required, being spread over a period of ten years. In all cases, lateral connexions within the limits of the highways were provided by the council when laying the public sewers to facilitate appropriate groups of dwellings being connected by a combined private sewer, the cost being shared equally on the basis of the number of houses and building sites in each group connected. Upon completion of the work and all charges paid, the private sewers will become vested in the council pursuant to s. 18 of the Public Health Act, 1936.

Difficulty is, however, being experienced where a group of dwellings is broken up by one or more building plots, as not unnaturally the owner is unwilling to grant a free easement for the private sewer, and at the same time to bear his share of the cost when, even if he wanted to build, there is very little prospect of his being able to do so for some years on account of the present restrictions. On the other hand, it is not considered equitable that he could take advantage immediately the private sewer is laid at the expense of the other property owners. It is, therefore, suggested that in such cases, the council should agree to bear a proportionate part of the cost of the private sewer through any land available for building until such time, if ever, that the land was developed, when the cost would be reimbursed with interest by the landowner at that time.

This seems a common sense arrangement, and it was thought that the question could be dealt with by way of agreement under s. 291 of the 1936 Act, but it appears in such cases there must be definite liability on the owner on behalf of whom the expenses have been incurred, whilst the cost must be recovered on completion or spread over a period not exceeding thirty years.

It is, therefore, desired to know:

(1) Whether an agreement on the lines indicated could legally be enforced, particularly against subsequent owners as a local land charge.

(2) Whether there is any statutory authority enabling the council to proceed in this manner.

(3) If the answer to (2) is in the negative, in what way could the difficulty be overcome other than the council's paying the cost of the adaptations under s. 42. ASEA.

Answer.

A sketch plan sent with the query shows a vacant plot close to the council's sewer, which runs parallel with its northern flank. Southward are eight houses, each in its own curtilage, and all facing eastward. These, we gather, are unsewered, and are now to be given a combined drain running northward across their back gardens. Against the northernmost plot owner, we think the council could use compulsory powers and provide a short public sewer up to the boundary of the next plot southward, which is the first plot built on, as indicated in answer to P.P. 7 at p. 31, *ante*. The developing owner or owners could then lay a private sewer or combined drain, linked to this new public sewer at the boundary. There are however some vacant plots interspersed with those already built on. These present a more difficult problem. We doubt whether the council could, by use of compulsory powers, lay a public sewer across an intervening vacant plot, linking the ends of two private sewers or combined drains. The intervening link must therefore be executed by agreement. If the intervening owner is willing to co-operate, we think s. 275 of the Act of 1936 can be used. He is undoubtedly "entitled," if he chooses, to lay a private sewer in his land, for his neighbours to use—so the council can under the section do it for him at his expense. Section 291 will then apply. It is true that the work must be done at his expense, but he can be given up to thirty years, as against the ten years which the council are giving in other cases. The charge for thirty years, or less if less is given, will be registrable.

13.—Road Traffic Acts—*Provisional licence holder—no "L" plates and unaccompanied—How many offences.*

I should be glad to have your opinion on the following point of law: Section 5 (3) of The Road Traffic Act, 1930, makes it an offence "if any person to whom such a provisional licence is granted fails to comply with any of the conditions subject to which it is granted" and s. 111 prescribes a maximum penalty of £20 for each offence committed.

Regulation 16 (3) of the Motor Vehicles (Driving Licences) Regulations, 1950, made under the principal Act, sets out in sub-paras. (*a*), (*b*) and (*c*) the conditions attached to such provisional licence.

If a provisional licence holder drives a motor vehicle constructed for the carriage of more than one person, fails to display the required "L" plates and at the same time drives unaccompanied, is he guilty of more than one offence under s. 5 of the principal Act? JELM.

Answer.

We think that a separate offence is committed in respect of each condition not complied with, and that the holder in question has committed two offences.

We answered a similar question at 113 J.P.N. 420, P.P. No. 9.

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The appointment is subject to the provisions of the Camberwell and other Metropolitan Borough Councils' (Superannuation) Act, 1908, as amended, and the person appointed will be required to pass a medical examination by the Council's Medical Officer of Health.

Housing accommodation cannot be provided by the council.

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Forms of application may be obtained from the undersigned and must be returned not later than Saturday, June 30, 1951.

S. J. HARVEY,
Town Clerk.

Town Hall,
Camberwell, S.E.5.

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The appointment will be subject to the Local Government Superannuation Act, 1937, and the successful candidate will be required to pass a medical examination.

Applications, stating age, past and present appointments and experience, together with copies of two recent testimonials, should reach the undersigned not later than June 26, 1951.

Canvassing will disqualify.

W. H. J. BROWNE,
Town Clerk.

Town Hall,
Whitehaven,
June 8, 1951.

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APPLICATIONS are invited for the above appointment on the permanent establishment of the Council at a salary in accordance with the A.P.T. Division, Grade VII of the National Scales, commencing at £635 per annum.

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Applicants must have experience in conveyancing and advocacy, and will be required to assist in the general work of the Town Clerk's Department. Previous local government experience will be an advantage but is not essential.

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Candidates must, when making their applications, disclose in writing whether to their knowledge they are related to any member or senior officer of the Council.

R. G. LICKFOLD,
Town Clerk.

Town Hall,
Weston-super-Mare.
June 12 1951.

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The salary will be in accordance with the Clerical Division of the National Joint Council's Scale, namely £395 rising to £440 per annum, but it is probable that these amounts will be increased to £445 and £490 respectively in the near future.

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T. STEPHENSON,
Clerk of the Standing Joint Committee.

County Hall, Beverly.

COUNTY OF MIDDLESEX

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C. W. RADCLIFFE,
Clerk to the Standing Joint Committee.

Middlesex Guildhall,
Westminster, S.W.1.

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Applicants should have sound experience in conveyancing. Public Authority and Advocacy experience is desirable but not essential.

Applications, giving particulars of age, education, qualifications and experience, together with the names and addresses of two referees, should reach the undersigned by July 2, 1951.

T. W. REES,
General Manager.

Town Hall, Newport, Mon.

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